99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-797

CRIMINAL LAW AND PROCEDURE TECHNICAL AMENDMENTS ACT OF 1986

NEWARK PUBLIC LIBRARY

SEP 8 1986

U. S. GOVT. PUBS.
DEPOSITORY 326

REPORT

OF THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 5241

AUGUST 15, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
62-217 O WASHINGTON : 1986

Y1.1/8:

COMMITTEE ON THE JUDICIARY

PETER W. RODINO, Jr., New Jersey, *Chairman*

JACK BROOKS, Texas
ROBERT W. KASTENMEIER, Wisconsin
DON EDWARDS, California
JOHN CONYERS, Jr., Michigan
JOHN F. SEIBERLING, Ohio
ROMANO L. MAZZOLI, Kentucky
WILLIAM J. HUGHES, New Jersey
MIKE SYNAR, Oklahoma
PATRICIA SCHROEDER, Colorado
DAN GLICKMAN, Kansas
BARNEY FRANK, Massachusetts
GEO. W. CROCKETT, Jr., Michigan
CHARLES E. SCHUMER, New York
BRUCE A. MORRISON, Connecticut
EDWARD F. FEIGHAN, Ohio
LAWRENCE J. SMITH, Florida
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
HARLEY O. STAGGERS, Jr., West Virginia
JOHN BRYANT, Texas

HAMILTON FISH, Jr., New York
CARLOS J. MOORHEAD, California
HENRY J. HYDE, Illinois
THOMAS N. KINDNESS, Ohio
DAN LUNGREN, California
F. JAMES SENSENBRENNER, Jr., Wisconsin
BILL McCOLLUM, Florida
E. CLAY SHAW, Jr., Florida
GEORGE W. GEKAS, Pennsylvania
MICHAEL DeWINE, Ohio
WILLIAM E. DANNEMEYER, California
HANK BROWN, Colorado
PATRICK L. SWINDALL, Georgia
HOWARD COBLE, North Carolina

M. ELAINE MIELKE, *General Counsel*
GARNER J. CLINE, *Staff Director*
ALAN F. COFFEY, Jr., *Associate Counsel*

SUBCOMMITTEE ON CRIMINAL JUSTICE

JOHN CONYERS, Jr., Michigan, *Chairman*

DON EDWARDS, California
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JOHN BRYANT, Texas

GEORGE W. GEKAS, Pennsylvania
PARTICK L. SWINDALL, Georgia
HOWARD COBLE, North Carolina

THOMAS W. HUTCHISON, *Counsel*
RAYMOND V. SMIETANKA, *Associate Counsel*
CHERYL REYNOLDS, *Clerk*
B.G. PORTER, *Intern*

READEX FICHE best copy available

99TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
99-797

CRIMINAL LAW AND PROCEDURE TECHNICAL AMENDMENTS ACT OF 1986

AUGUST 15, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 5241]

The Committee on the Judiciary to whom was referred the bill (H.R. 5241) to amend titles 18 and 28 of the United States Code to make technical and other changes occasioned by the enactment of the Comprehensive Crime Control Act of 1984, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Law and Procedure Technical Amendments Act of 1986".

SEC. 2. STYLISTIC CORRECTION.

(a) IN GENERAL.—Section 3673 of title 18, United States Code, is amended—

(1) by redesignating paragraphs (a) through (c) as paragraphs (1) through (3), respectively;

(2) by inserting "the term" before each open quotation mark.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3673 of title 18, United States Code.

SEC. 3. CONFORMING REPEAL.

(a) IN GENERAL.—Section 4216 of title 18, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 311 of title 18, United States Code, is amended by striking out the item related to section 4216.

SEC. 4. CROSS REFERENCE CORRECTION.

Section 992(c) of title 28, United States Code, is amended by striking out "section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983" and inserting in lieu thereof "section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984".

SEC. 5. REPEAL OF OBSOLETE PROVISION.

Section 993(b)(2) of title 28, United States Code, is amended by striking out the sentence beginning "Before the appointment".

SEC. 6. SENTENCING COMMISSION.

(a) RESIDENCE REQUIREMENT WAIVED FOR MEMBERS.—Section 992 of title 28, United States Code, is amended by adding at the end the following:

"(d) Sections 44(c) and 134(b) of this title (relating to the residence of judges) do not apply to any judge holding a full-time position on the Commission under subsection (c) of this section.".

(b) DUTIES.—Section 994 of title 28, United States Code, is amended—

(1) in subsection (h), by striking out "by section 3581(b) of title 18, United States Code,";

(2) in each of subsections (h) and (i), by striking out "will"; and

(3) in subsection (t)—

(A) by inserting "in what circumstances and" after "specify"; and

(B) by striking out "that are outside the applicable guideline ranges".

SEC. 7. PRESENTENCE REPORTS.

(a) IN GENERAL.—Section 3552 of title 18, United States Code, is amended—

(1) in the third sentence of subsection (b), by striking out "take" and inserting "be" in lieu thereof;

(2) in the eighth sentence of subsection (b), by inserting ", if the defendant is in custody," after "the United States marshal shall"; and

(3) in subsection (c), by striking out "it may" and all that follows through "4247." and inserting in lieu thereof "the court may order the same psychiatric or psychological examination and report thereon as may be ordered under section 4244(b) of this title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3552 of title 18, United States Code.

SEC. 8. SENTENCING IN ABSENCE OF APPLICABLE GUIDELINE.

(a) IN GENERAL.—Section 3553(b) of title 18, United States Code, is amended by adding at the end thereof "In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, the applicable policy statements of the Sentencing Commission, and the purposes of sentencing set forth in subsection (a)(2).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3553 of title 18, United States Code.

SEC. 9. ELIMINATION OF DISCHARGE OF LIABILITY FOR UNEXECUTED FINE OR OTHER PUNISHMENT IMPOSED BY FULFILLMENT OF PROBATION TERMS AND CONDITIONS.

(a) IN GENERAL.—Section 3561(a) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out the second sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3561(a).

SEC. 10. ELIMINATION OF SECTION CROSS REFERENCE RELATING TO AUTHORIZED IMPRISONMENT AS A CONDITION OF PROBATION.

(a) IN GENERAL.—Section 3563(b)(11) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "in section 3581(b)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3563(b)(11).

SEC. 11. CONCURRENCE OF SENTENCE OF PROBATION.

(a) IN GENERAL.—Section 3564(b) of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out the second sentence and inserting in lieu thereof the following: "A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of such section 3564.

SEC. 12. AMENDMENTS RELATING TO SUPERVISED RELEASE.

(a) IN GENERAL.—Section 3583(e) of title 18, United States Code, is amended—

(1) by striking out "**Modification of term or conditions.**" and inserting "**Modification of conditions or revocation.**" in lieu thereof; and

(2) in paragraph (1), by striking out "previously ordered".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code.

SEC. 13. DUTIES OF PROBATION OFFICER.

(a) IN GENERAL.—Section 3603 of title 18, United States Code, is amended—

(1) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8), respectively;

(2) in paragraph (6) as so redesignated—

(A) by striking out "supervise" and inserting "assist in the supervision of" in lieu thereof; and

(B) by inserting a comma after "about".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the taking effect of section 3603 of title 18, United States Code.

SEC. 14. CREDIT TOWARD SERVICE OF TERM OF IMPRISONMENT.

(a) IN GENERAL.—Subsection (b) of the section 3624 of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "after" the first place it appears and inserting "at the end of" in lieu thereof.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3624.

SEC. 15. CONCURRENCE OF RUNNING OF TERM OF SUPERVISED RELEASE.

(a) IN GENERAL.—Subsection (e) of section 3624 of title 18, United States Code, as added by section 212(a) of the Comprehensive Crime Control Act of 1984, is amended—

(1) by striking out ". The term" the second place it appears and inserting "and" in lieu thereof;

(2) by striking out ", except that it" and inserting ". A term of supervised release" in lieu thereof;

(3) by striking out ", other than during limited intervals as a condition of probation or supervised release,"; and

(4) by inserting before the period at the end of the third sentence the following: "unless the imprisonment is for a period of less than 30 consecutive days".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such section 3624.

SEC. 16. JUVENILE DISPOSITIONAL HEARING.

(a) IN GENERAL.—Section 5037 of title 18, United States Code, as amended by section 214 of the Comprehensive Crime Control Act of 1984, is amended—

(1) in subsection (a), by striking out "(e)" and inserting "(d)" in lieu thereof;

(2) in subsection (c)(1)(B), by striking out "by section 3581(b)";

(3) in subsection (c)(2)(B), by striking out "by section 3581(b)"; and

(4) in subsection (c), by adding the following at the end thereof:

"Section 3624 is applicable to an order placing a juvenile under detention.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the amendments made by such section 214 take effect.

SEC. 17. OFFENDERS WITH MENTAL DISEASE OR DEFECT.

Subdivision (c) of Rule 12.2 of the Federal Rules of Criminal Procedure is amended by inserting "4241 or" before "4242".

SEC. 18. RENUMBERING OF SECTION IN CHAPTER 65.

(a) IN GENERAL.—Chapter 65 of title 18 of the United States Code is amended by redesignating the section 1365 relating to destruction of an energy facility as section 1366.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by striking out "1365" the second place it appears and inserting in lieu thereof "1366".

SEC. 19. REGISTRATION OF FOREIGN AGENTS.

Section 219 of title 18, United States Code, is amended—

(1) so that the first paragraph reads as follows:

"(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined under this title or imprisoned for not more than two years, or both.";

(2) by redesignating the second and third paragraphs as subsection (b) and (c), respectively; and

(3) in the last paragraph by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate", and by striking out ", or a juror".

SEC. 20. RENUMBERING OF SECTION IN CHAPTER 25.

(a) IN GENERAL.—Chapter 25 of title 18 of the United States Code is amended—

(1) by redesignating the section 511 relating to securities of States and private entities as section 513; and

(2) transferring the section so redesignated so that such section appears after section 512 (relating to forfeiture of certain motor vehicles and motor vehicle parts).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18 of the United States Code is amended—

(1) by striking out "510. Securities of the State private entities."; and

(2) by adding at the end the following:

"513. Securities of the States and private entities.".

SEC. 21. ELIMINATION OF SUPERFLUOUS CROSS-REFERENCE.

Section 3731 of title 18, United States Code, is amended by striking out the fifth paragraph.

SEC. 22. CORRECTION OF CLERICAL ERROR.

The first paragraph of section 2232 of title 18, United States Code, is amended by inserting "not" after "imprisoned".

SEC. 23. RENUMBERING OF SECTION IN CHAPTER 1.

(a) IN GENERAL.—Section 20 of title 18, United States Code, is redesignated as section 17.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking out "20" and inserting "17" in lieu thereof.

SEC. 24. COORDINATING EFFECTIVE DATES FOR INITIAL SET OF SENTENCING GUIDELINES AND THE NEW SENTENCING CHAPTERS OF TITLE 18.

Section 235(a)(1)(B) of the Comprehensive Crime Control Act of 1984 is amended—

(1) in clause (i), by striking out "the chapter" and inserting "such chapter 58" in lieu thereof; and

(2) in clause (ii)—

(A) by striking out ", and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code,";

(B) by striking out "the day after";

(C) in subclause (III), by inserting "the day after" before "the Congress"; and

(D) so that subclause (IV) reads as follows:

"(IV) section 212(a)(2) takes effect, in the case of the initial sentencing guidelines so promulgated.".

SEC. 25. CLERICAL CORRECTIONS TO SECTION 1201 OF TITLE 18.

Section 1201(a) of title 18, United States Code, is amended—

(1) by striking out "when:" and inserting "when—" in lieu thereof;

(2) so that the margin of paragraph (5) is aligned with the margin of paragraphs (1) through (4);

(3) by striking out "The" in paragraph (5) and inserting "the" in lieu thereof; and

(4) by striking out "duties," and inserting "duties;" in lieu thereof.

SEC. 26. CROSS REFERENCE DETAIL.

(a) PENALTY CROSS REFERENCE.—Paragraph (2) of section 115(b) of title 18, United States Code, is amended by inserting "for the kidnapping or attempted kidnapping of a person described in section 1201(a)(5) of this title" after "section 1201 of this title".

(b) INCLUSION OF CERTAIN ATTEMPTS IN 1201 CROSS REFERENCE.—Section 1201(d) of title 18, United States Code, is amended by inserting "or (a)(5)" after "subsection (a)(4)".

SEC. 27. GENERAL DEFINITION OF ORGANIZATION.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding after the section redesignated by section 23 the following:

"§ 18. Organization defined

"As used in this title, the term 'organization' means a person other than an individual.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"18. Organization defined.".

SEC. 28. CREDITING OF MARSHAL'S FEES.

(a) IN GENERAL.—Section 1921 of title 28, United States Code, is amended—

(1) by striking out "Only" and inserting in lieu thereof "(a) Except as otherwise provided by law, only";

(2) by striking out ", except as otherwise provided";

(3) by inserting "(1)" before "For" the first place it appears;

(4) by inserting "(2)" before "For" the second place it appears;

(5) by inserting "(3)" before "For" the third place it appears;

(6) by inserting "(4)" before "For" the fourth place it appears;

(7) by inserting "(5)" before "For" the fifth place it appears;

(8) by inserting "(6)" before "For" the sixth place it appears;

(9) by inserting "(7)" before "For" the seventh place it appears;

(10) by inserting "(8)" before "For" the eighth place it appears;

(11) by inserting "(9)" before "For" the ninth place it appears;

(12) by inserting "(b)(1)" before "No mileage fees";

(13) by inserting "(2)" before "The marshal may require a deposit to cover";

(14) by striking out each semicolon that appears at the end of a paragraph and inserting in lieu thereof a period; and

(15) by adding at the end the following:

"(c) Notwithstanding section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in advance in appropriations Acts—

"(1) to credit to such Service's appropriation all fees, commissions, and expenses collected by such Service for—

"(A) the service of civil process, including complaints, summonses, subpoenas, and similar process; and

"(B) seizures, levies, and sales associated with judicial orders of execution; and

"(2) to use such credited amounts for the purpose of carrying out such activities.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 29. REDESIGNATION OF SECTION.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by redesignating the section 2320 that was enacted by Public Law 98-547 as section 2321.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by striking out "2320" the second place it appears and inserting in lieu thereof "2321".

SEC. 30. CORRECTION OF ERRONEOUS CROSS REFERENCES.

(a) SECTION 1029 AMENDMENT.—Section 1029(f) of title 18, United States Code, is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

(b) SECTION 1028 AMENDMENT.—Section 1028(e) of title 18, United States Code, is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

SEC. 31. INCLUSION OF CERTAIN DELGATES TO CONGRESS IN BRIBERY PROHIBITION.

(a) SUBSECTION (a) AMENDMENTS.—Section 201(a) of title 18, United States Code, is amended—

(1) by striking out "section:" and inserting "section—" in lieu thereof;

(2) in the first undesignated paragraph—

(A) by inserting "(1) the term" before " 'public official' ";

(B) by striking out "the Delegate from the District of Columbia," and inserting "Delegate," in lieu thereof;

(C) by striking out "after he has qualified," and inserting "after such official has qualified," in lieu thereof; and

(D) by striking out "juror; and" and inserting "juror;" in lieu thereof;

(3) in the second undesignated paragraph—

(A) by inserting "(2) the term" before " 'person' "; and

(B) by striking out "he will be" and inserting "such person will be" in lieu thereof; and

(4) in the third undesignated paragraph—

(A) by inserting "(3) the term" before " 'official act' "; and

(B) by striking out "in his official capacity, or in his" and inserting "in such official's official capacity, or in such official's" in lieu thereof;

(b) SUBSECTION (b) AMENDMENTS.—Section 201(b) of title 18, United States Code, is amended—

(1) by striking out

"(b) Whoever directly"

and inserting in lieu thereof the following:

"(b) Whoever—

"(1) directly";

(2) in paragraph (3), by striking out "his lawful duty; or" and inserting "the lawful duty of such official or person;" in lieu thereof; and

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins so that such subparagraphs are indented 6 ems.

(c) SUBSECTION (c) AMENDMENTS.—Section 201(c) of title 18, United States Code, is amended—

(1) by striking out "(c) Whoever, being" and inserting "(2) being" in lieu thereof;

(2) by striking out "corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally";

(3) in paragraph (1), by striking out "his performance of any official act; or" and inserting in lieu thereof "the performance of any official act;"

(4) in paragraph (3), by striking out "his official duty; or" and inserting in lieu thereof "the official duty of such official or person;"; and

(5) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and adjusting the margins so that such subparagraphs are indented 4 ems.

(d) SUBSECTION (d) AMENDMENTS.—Section 201(d) of title 18, United States Code, is amended—

(1) by striking out "(d) Whoever, directly" and inserting "(3) directly" in lieu thereof; and

(2) by striking out "therefrom; or" and inserting "therefrom;" in lieu thereof;

(e) SUBSECTION (e) AMENDMENTS.—Section 201(e) of title 18, United States Code, is amended—

(1) by striking out "(e) Whoever, directly" and inserting "(4) directly";

(2) by striking out "asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally";

(3) by striking out "in his testimony" and inserting "in testimony" in lieu thereof;

(4) by striking out "therefrom—" and inserting "therefrom;" in lieu thereof; and

(5) in the undesignated paragraph—

(A) by striking out "Shall" and inserting "shall" in lieu thereof;

(B) by striking out "$20,000 or";

(C) by striking out "whichever is greater,";

(f) SUBSECTION (f) AMENDMENTS.—Section 201(f) of title 18, United States Code, is amended—

(1) by striking out

"(f) Whoever, otherwise"

and inserting in lieu thereof the following:

"(c) Whoever—

"(1) otherwise";

(2) by striking out "official duty, directly" and inserting in lieu thereof the following:

"official duty—

"(A) directly";

(g) SUBSECTION (g) AMENDMENTS.—Section 201(g) of title 18, United States Code, is amended—

(1) by striking out

"(g) Whoever, being"

and inserting in lieu thereof

"(B) being";

(2) by striking out "indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself" and inserting in lieu thereof "indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally"; and

(3) by striking out "by him; or" and inserting in lieu thereof "by such official or person;";

(h) SUBSECTION (h) AMENDMENTS.—Section 201(h) of title 18, United States Code, is amended—

(1) by striking out

"(h) Whoever, directly"

and inserting in lieu thereof the following:

"(2) directly"; and

(2) by striking out "because of his absence therefrom; or" and inserting in lieu thereof "because of such person's absence therefrom;";

(i) SUBSECTION (i) AMENDMENTS.—Section 201(i) of title 18, United States Code, is amended—

(1) by striking out

"(i) Whoever, directly"

and inserting in lieu thereof the following:

"(3) directly";

(2) by striking out "asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive" and inserting in lieu thereof "demands, seeks, receives, accepts, or agrees to receive or accept";

(3) by striking out "for himself" and inserting "personally" in lieu thereof;

(4) by striking out "given by him" and inserting "given by such person" in lieu thereof;

(5) by striking out "his absence therefrom—" and inserting "such person's absence therefrom;" in lieu thereof; and

(6) in the undesignated paragraph—

(A) by striking out "Shall" and inserting "shall"; and

(B) by striking out "not more than $10,000" and inserting "under this title" in lieu thereof.

(j) SUBSECTION (j) AMENDMENTS.—Section 201(j) of title 18, United States Code, is amended—

(1) by striking out

"(j) Subsections (d), (e), (h), and (i)"

and inserting in lieu thereof the following:

"(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c)"; and

(2) by striking out "involving a technical or professional opinion,".

(k) SUBSECTION (k) AMENDMENT.—Section 201(k) of title 18, United States Code, is amended by striking out

"(k) The"

and inserting in lieu thereof the following:

"(e) The".

(l) REALIGNMENT AMENDMENT.—Section 201 of title 18, United States Code, as amended by this section is further amended so that the margins of each subsection, and of the paragraphs and subpararaphs of each subsection, are flush, indented 2 ems, and indented 4 ems, respectively.

(m) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 32. INCLUSION OF CERTAIN DELEGATES TO CONGRESS IN PROHIBITION AGAINST RECEIVING COMPENSATION FOR SERVICES RENDERED IN CONNECTION WITH A PROCEEDING IN WHICH THE UNITED STATES IS A PARTY.

(a) IN GENERAL.—Section 203 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any" and inserting in lieu thereof the following: "indirectly—

"(1) demands, seeks, receives, accepts, or agrees to receive or accept any";

(B) by striking out "by himself or another—" and inserting in lieu thereof "personally or by another—";

(C) by striking out

"(1) at a time when he"

and inserting in lieu thereof the following:

"(A) at a time when such person";

(D) by striking out "Delegate from the District of Columbia, Delegate Elect from the District of Columbia," and inserting in lieu thereof "Delegate, Delegate Elect,";

(E) by striking out

"(2) at a time when he"

and inserting in lieu thereof the following:

"(B) at a time when such person"; and

(F) by striking out "commission, or" and inserting "commission; or" in lieu thereof;

(2) in subsection (b)—

(A) by striking out

"(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives,"

and inserting in lieu thereof the following:

"(2) knowingly gives,"; and

(B) by striking out "employee—" and inserting "employee;" in lieu thereof; and

(C) in the undesignated paragraph, by striking out "Shall be fined not more than $10,000" and inserting in lieu thereof "shall be fined under this title";

(3) in subsection (c)—

(A) by striking out "parties (1) in which he" and inserting in lieu thereof the following:

"parties—

"(1) in which such employee";

(B) by striking out "otherwise, or (2) which is pending" and inserting in lieu thereof the following:

"otherwise; or

"(2) which is pending";

(C) by striking out "in which he is serving: *Provided*, That clause (2)" and inserting "in which such employee is serving except that paragraph (2) of this subsection"; and

(D) section 203 of title 18, United States Code, as amended by this section is further amended so that the margins of each subsection, and of the paragraphs and subpararaphs of each subsection, are flush, indented 2 ems, and indented 4 ems, respectively; and

(4) by redesignating subsection (c) as subsection (b).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 33. AVAILABILITY OF SECTION 1402 AMOUNTS.

Section 1402(e) of the Victims of Crime Act of 1984 is amended by—

(A) striking out "the next succeeding fiscal year" and inserting in lieu thereof "the next two succeeding fiscal years"; and

(B) striking out "which year" and inserting "which two-year period" in lieu thereof.

SEC. 34. RELEASE PENDING SENTENCE.

(a) IN GENERAL.—Section 3143 of title 18 of the United States Code is amended—

(1) in subsection (b)(2)—

(A) by striking out "reversal or" and inserting in lieu thereof, "reversal,"; and

(B) by inserting after "trial" the following: ", or a sentence that does not include a term of imprisonment"; and

(2) by adding at the end of subsection (c) the following:

"Except as provided in subsection (b) of this section, the judicial officer, in a case in which an appeal has been taken by the United States under section 3742, shall—

"(1) if the person has been sentenced to a term of imprisonment, order that person detained; and

"(2) in any other circumstance, release or detain the person under section 3142.".

(b) CONFORMING REPEAL.—The amendment made by section 223(f)(2) of the Comprehensive Crime Control Act of 1984 shall not take effect.

(c) EFFECTIVE DATE FOR SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect on the date of the taking of effect of section 3742 of title 18, United States Code.

SEC. 35. REVISION OF PRISON CONTRABAND PROHIBITION.

(a) IN GENERAL.—Section 1791 of title 18 of the United States Code is amended to read as follows:

"§ 1791. Providing or possessing contraband in prison

"(a) OFFENSE.—Whoever—

"(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

"(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

"(1) imprisonment for not more than 10 years, or both, if the object is specified in subsection (c)(1)(A) of this section;

"(2) imprisonment for not more than 5 years, or both, if the object is specified in subsection (c)(1)(B) or (c)(1)(C) of this section;

"(3) imprisonment for not more than one year, or both, if the object is specified in subsection (c)(1)(D) or (c)(1)(E) of this section; and

"(4) imprisonment for not more than 6 months, or both, if the object is specified in subsection (c)(1)(F) of this section.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'prohibited object' means—

"(A) a firearm or destructive device;

"(B) ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

"(C) a narcotic drug, lysergic acid diethylamide, or phencyclidine;

"(D) a controlled substance (other than a controlled substance referred to in subparagraph (C) of this subsection) or an alcoholic beverage;

"(E) any United States or foreign currency; and

"(F) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

"(2) the terms 'ammunition', 'firearm', and 'destructive device' have, respectively, the meanings given those terms in section 921 of this title;

"(3) the terms 'controlled substance' and 'narcotic drug' have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

"(4) the term 'prison' means a Federal correctional, detention, or penal facility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 36. ADDITIONAL CLASS OF INSTITUTIONS ADDED TO MUTINY AND RIOT PROHIBITION.

(a) IN GENERAL.—Section 1792 of title 18 of the United States Code is amended by inserting ", detention," after "penal".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the enactment of this Act.

SEC. 37. AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE RELATING TO CONDITIONAL RULING ON MOTION FOR NEW TRIAL AND SENTENCING.

(a) CONDITIONAL RULING.—Rule 29 of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

"(d) SAME: CONDITIONAL RULING ON GRANT OF MOTION.—If a motion for judgment of acquittal after verdict of guilty under this Rule is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed, specifying the grounds for such determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial has been granted conditionally and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. If such motion has been denied conditionally, the appellee on appeal may assert error in that denial, and if the

judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 38. STYLE CORRECTIONS TO CHAPTER 207 OF TITLE 18 AND ADDITION OF PSYCHOLOGICAL TREATMENT TO LIST OF TREATMENTS WHICH MAY BE REQUIRED AS CONDITION OF RELEASE UNDER THAT CHAPTER.

(a) CHAPTER AMENDMENT.—Chapter 207 of title 18, United States Code, is amended by striking out "pursuant to the provisions of" each place it appears and inserting "under" in lieu thereof.

(b) SECTION 3141 AMENDMENTS.—Section 3141(a) of title 18, United States Code, is amended—

(1) by striking out "who is";

(2) by striking out "pursuant to section" and inserting "under section" in lieu thereof;

(3) by inserting "before whom an arrested person is brought" after "of this title";

(4) by striking out "an arrested" and inserting "such" in lieu thereof; and

(5) by striking out "who is brought before him".

(c) SECTION 3142 AMENDMENTS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "his"; and

(ii) by inserting "of this section" after "subsection (b)";

(B) in paragraph (2), by inserting "of this section" after "subsection (c)";

(C) in paragraph (3), by inserting "of this section" after "subsection (d)";

(D) in paragraph (4), by inserting "of this section" after "subsection (e)";

(2) in subsection (b), by striking out "his" each place it appears;

(3) in subsection (c)—

(A) by inserting "(1)" before "If the judicial officer";

(B) by inserting "of this section" after "subsection (b)";

(C) by striking out "he" each place it appears and inserting "such judicial officer" in lieu thereof;

(D) by striking out "his" each place it appears;

(E) in paragraph (2)(A), by striking out "supervise him" and insert in lieu thereof "assume supervision";

(F) in paragraph (2)(J), by inserting ", psychological," after "medical";

(G) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) respectively;

(H) by redesignating subparagraphs (A) through (N) as clauses (i) through (xiv) respectively;

(I) by designating the next to last sentence as paragraph (2); and

(J) by designating the last sentence as paragraph (3);

(4) in subsection (d)—

(A) by striking out "he" the first place it appears and inserting "such judicial officer" in lieu thereof; and

(B) by striking out "the person" and inserting "such person" in lieu thereof;

(C) by inserting "of this subsection" after "paragraph (1)(B); and

(D) by striking out "that he is" and all that follows through "lawfully admitted" and inserting "such person's United States citizenship or lawful admission";

(5) in subsection (e)—

(A) by inserting "of this section" after "subsection (f)";

(B) by striking out "described in (f)(1)" and inserting "described in subsection (f)(1) of this section" in lieu thereof;

(C) by inserting "of this section" after "subsection (f)(1)" each place it appears;

(D) by inserting "of this subsection" after "paragraph (1)" each place it appears;

(E) by striking out "prior to" and inserting "before" in lieu thereof;

(F) by striking out "he" and inserting "such judicial officer" in lieu thereof; and

(G) by striking out "the judge" and inserting "such judicial officer" in lieu thereof;

(6) in subsection (f)—

(A) by inserting "of this section" after "subsection (c)";
(B) by striking out "in a case";
(C) in paragraph (1), by inserting "in a case" after "Government,";
(D) in paragraph (1)(D), by inserting "of this paragraph" after "(C)" each place it appears;
(E) in paragraph (2)—
(i) by striking out "Upon" and inserting "upon" in lieu thereof; and
(ii) by inserting "in a case" after "own motion,";
(F) by striking out "on his own motion" and inserting "sua sponte" in lieu thereof;
(G) by striking out "whether he is an addict" and inserting "whether such person is an addict" in lieu thereof;
(H) by striking out "the person" and inserting "such person" in lieu thereof;
(I) by striking out "he is financially" and inserting "financially" in lieu thereof;
(J) by striking out "for him"; and
(K) by striking out "on his own behalf";
(7) in subsection (g)—
(A) in paragraph (3)—
(i) in subparagraph (A), by striking out "his" and inserting "the person's" in lieu thereof; and
(ii) in subparagraph (B), by striking out "he" and inserting "the person" in lieu thereof; and
(B) in paragraph (4), by inserting "of this section" after "(c)(2)(L)";
(8) in subsection (h)—
(A) by inserting "of this section" after "(c)"; and
(B) in paragraph (2)(C), by striking out "the provisions of"; and
(9) in subsection (i)—
(A) by inserting "of this section" after "(e)"; and
(B) by striking out "his".

(d) SECTION 3143 AMENDMENTS.—Section 3143 of title 18, United States Code, is amended—
(1) in subsections (a) and (b)(1), by striking out "pursuant to" each place it appears and inserting "under" in lieu thereof;
(2) in subsections (a), (b), and (c), by striking out "the provisions of" each place it appears;
(3) in subsection (b), by inserting "of this title" after "(c)" each place it appears;
(4) by striking out "he" each place it appears and inserting "such judicial officer" in lieu thereof; and
(5) in subsection (c), by inserting "of this title" after "3142".

(e) SECTION 3144 AMENDMENTS.—Section 3144 of title 18, United States Code, is amended—
(1) by striking out "subpena" and inserting "subpoena" in lieu thereof; and
(2) by inserting "of this title" after "3142".

(f) SECTION 3146 AMENDMENTS.—Section 3146 of title 18, United States Code, is amended—
(1) by striking out subsection (a) and all that follows through subsection (b) and inserting in lieu thereof the following:

"(a) OFFENSE.—Whoever, having been released under this chapter knowingly—
"(1) fails to appear before a court as required by the conditions of release; or
"(2) fails to surrender for service of sentence pursuant to a court order;
shall be punished as provided in subsection (b) of this section.
"(b) PUNISHMENT.—(1) The punishment for an offense under this section is—
"(A) if the person was released in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction for—
"(i) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, a fine under this title or imprisonment for not more than ten years, or both;
"(ii) an offense punishable by imprisonment for a term of five years or more, a fine under this title or imprisonment for not more than five years, or both;
"(iii) any other felony, a fine under this title or imprisonment for not more than two years, or both; or

"(iv) a misdemeanor, a fine under this chapter or imprisonment for not more than one year, or both; and

"(B) if the person was released for appearance as a material witness, a fine under this chapter or imprisonment for not more than one year, or both.

"(2) A term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.";

(2) in subsection (c)—

(A) by striking out "that he" the first place it appears and inserting in lieu thereof "to"; and

(B) by striking out "he appeared" and inserting in lieu thereof "the person appeared"; and

(3) in subsection (d)—

(A) by inserting "of this title" after "3142(b)";

(B) by striking out "section 3142 (c)(2)(K) or (c)(2)(L)" and inserting "clause (xi) or (xii) of section 3142(c)(1)(B) of this title" in lieu thereof.

(g) SECTION 3147 AMENDMENTS.—Section 3147 of title 18, United States Code, is amended—

(1) by striking out "pursuant to" each place it appears and inserting "under" in lieu thereof; and

(2) by inserting a comma after "for the offense".

(h) SECTION 3148 AMENDMENTS.—Section 3148 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "of this title" after "3142";

(2) in subsection (b)—

(A) by striking out "his" the first place it appears and inserting "such person's" in lieu thereof;

(B) by striking out "his" each other place it appears;

(C) by striking out "he" the first place it appears and inserting "such person" in lieu thereof;

(D) by inserting a comma after "period of release";

(E) by inserting "of this title" after "3142(g)";

(F) by striking out "he" the second place it appears and inserting "the judicial officer" in lieu thereof; and

(G) by inserting "of this title" after "3142"; and

(3) in subsection (c)—

(A) by striking out "judge" and inserting "judicial officer" in lieu thereof;

(B) by inserting "of this title" after "401"; and

(C) by striking out "his".

(i) SECTION 3156 AMENDMENTS.—Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "The term" each place it appears and inserting "the term" in lieu thereof; and

(2) by striking out "and" at the end of paragraph (2).

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 39. CORRECTION OF PRINTING ERROR IN SENTENCING GUIDELINES ACT OF 1984.

Section 994(b)(2) of title 28, United States Code, is amended by striking out "that, if the maximum" and inserting "that, if the minimum" in lieu thereof.

SEC. 40. AMENDMENT RELATING TO PAROLE REGIONS.

Section 4203(a)(2) of title 18, United States Code, is amended by striking out ", but in no event less than five".

SEC. 41. PAROLE-RELATED CORRECTIONS.

(a) NATIONAL APPEALS BOARD.—Section 4204(a)(5) of title 18, United States Code, is amended by striking out "three" and inserting in lieu thereof "not fewer than three".

(b) CONFERENCE WITH REPRESENTATIVES RATHER THAN COMMISSIONERS.—Section 4208(g) of title 18, United States Code, is amended by inserting "any representative of" before "the Commissioners".

(c) CONDITIONS OF PAROLE.—Section 4209(d)(1) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this paragraph, the Commission may modify conditions of parole, without regard to such ten-day period, on any such motion if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public.".

(d) RUNNING OF TERMS.—Section 4210(b)(2) of title 18, United States Code, is amended—

(1) by striking out "a Federal, State, or local crime" and inserting "any criminal offense" in lieu thereof; and

(2) by striking out "crime" the second place it appears and inserting "offense" in lieu thereof.

(e) ELIMINATION OF OBSOLETE PROVISION.—Section 4210 of title 18, United States Code, is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(f) REVOCATION OF PAROLE.—Section 4214(b)(1) of title 18, United States Code, is amended—

(1) by striking out "a Federal, State, or local crime" and inserting in lieu thereof "any criminal offense"; and

(2) by striking out "a crime" and inserting "an offense" in lieu thereof.

(g) ELIMINATION OF OBSOLETE SECTION.—(1) Title 18, United States Code, is amended by striking out section 4217.

(2) The table of sections at the beginning of chapter 311 of title 18, United States Code, is amended by striking out the item relating to section 4217.

SEC. 42. PROGRAM THEFT AND BRIBERY.

(a) IN GENERAL.—Section 666 of title 18, United States Code, is amended to read as follows:

"§ 666. Theft or bribery concerning programs receiving Federal funds

"(a) Whoever, if the circumstance described in subsection (b) of this section exists—

"(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

"(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—

"(i) is valued at $5,000 or more, and

"(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

"(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

"(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

"(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

"(d) As used in this section—

"(1) the term 'agent' means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

"(2) the term 'government agency' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program; and

"(3) the term 'local' means of or pertaining to a political subdivision within a State.".

SEC. 43. EXTENSION OF CERTAIN PROTECTIONS FOR FAMILY MEMBERS OF CERTAIN OFFICIALS TO THOSE OFFICIALS.

Section 115(a) of title 18, United States Code, is amended by striking out "18 U.S.C. 1114, as amended," and inserting "section 1114 of this title, or threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section" in lieu thereof.

SEC. 44. KILLING WITNESSES.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after the catchline the following:

"(a)(1) Whoever kills or attempts to kill another person, with intent to—

"(A) prevent the attendance or testimony of any person in an official proceeding;

"(B) prevent the production of a record, document, or other object, in an official proceeding; or

"(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years."; and

(2) by redesignating subsections (a) through (f) as subsections (b) through (g) respectively.

SEC. 45. PROTECTION FOR MAJOR PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES.

Section 351 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)" after "Central Intelligence,"; and

(2) in subsection (h), by striking out "official" and inserting "individual" in lieu thereof.

SEC. 46. ADDITION OF FOREIGN COMMERCE TO COMMUNICATION OF THREAT OFFENSES.

Section 875 of title 18, United States Code, is amended by inserting "or foreign" after "interstate" each place it appears.

SEC. 47. TRESPASS ON BUREAU OF PRISONS RESERVATIONS AND LAND.

(a) IN GENERAL.—Chapter 87 of title 18, United States Code, is amended by inserting after section 1792 the following new section:

"§ 1793. Trespass on Bureau of Prisons reservations and land

"Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined not more than $500 or imprisoned not more than six months, or both."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 87 of title 18, United States Code, is amended by adding at the end the following new item:

"1793. Trespass on Bureau of Prisons reservations and land."

SEC. 48. ARREST AUTHORITY.

(a) IN GENERAL.—The first sentence of section 3050 of title 18, United States Code, is amended to read as follows:

"An officer or employee of the Bureau of Prisons may—

"(1) make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code, and section 1826(c) (escape) of title 28, United States Code;

"(2) make arrests on Bureau of Prisons premises or reservation land of a penal, detention, or correctional facility without warrant for violations occurring thereon of the following provisions: sections 661 (theft), 1361 (depredation of property), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and

"(3) arrest without warrant for any other offense described in title 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property;

if such officer or employee has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of such person's escaping before an arrest warrant can be obtained.".

(b) STYLE CORRECTION.—The second sentence of section 3050 of title 18, United States Code, is amended by striking out "he" and inserting "such prisoner".

SEC. 49. AUTHORITY TO EXCHANGE INMATES WITH STATES.

Subsection (a) of section 5003 of title 18, United States Code, is amended to read as follows:

"(a)(1) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available may contract with proper officials of a State or territory, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or territory.

"(2) Any such contract shall provide—

"(A) for reimbursing the United States in full for all costs or expenses involved;

"(B) for receiving in exchange persons convicted of criminal offenses in the courts of the United States, to serve their sentence in appropriate institutions or facilities of the State or territory by designation as provided in section 4082(b) of this title, this exchange to be made according to formulas or conditions which may be negotiated in the contract; or

"(C) for compensating the United States by means of a combination of monetary payment and of receipt of persons convicted of criminal offenses in the courts of the United States, according to formulas or conditions which may be negotiated in the contract.

"(3) No such contract shall provide for the receipt of more State or territory prisoners by the United States than are transferred to that State or territory by such contract.".

SEC. 50. AUTHORITY TO ACCEPT DONATIONS AND CONDUCT AUTOPSIES.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4044. Donations on behalf of the Bureau of Prisons

"The Attorney General may, in accordance with rules prescribed by the Attorney General, accept in the name of the Department of Justice any form of devise, bequest, gift or donation of money or property for use by the Bureau of Prisons or Federal Prison Industries. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

"§ 4045. Authority to conduct autopsies

"A chief executive officer of a Federal penal or correctional facility may, pursuant to rules prescribed by the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death, when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consistent with the needs of the autopsy or of specific scientific or medical tests, provisions of State and local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or post-mortem operation, including removal of tissue for transplanting, to be performed on the body of a deceased inmate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding after the item relating to 4043 the following new items:

"4044. Donations on behalf of the Bureau of Prisons."
"4045. Authority to conduct autopsies.".

SEC. 51. ADDITION OF EXTORTION TO BANK ROBBERY OFFENSE.

Section 2113(a) of title 18, United States Code, is amended by inserting ", or obtains or attempts to obtain by extortion" after "from the person or presence of another".

PURPOSE OF THE LEGISLATION

This bill makes necessary technical and other minor changes to sections of titles 18 and 28 of the United States Code, and to the Federal Rules of Criminal Procedure.

BACKGROUND

The Comprehensive Crime Control Act of 1984 ("CCCA"), Pub. L. No. 98-473, 98 Stat. 1976-2199 (1984), made significant changes in Federal criminal laws and procedures. However, the enactment of the CCCA came during the final weeks of the 98th Congress, and, due to demanding time constraints, the CCCA contained a number of ambiguities and technical defects.

H.R. 5241 amends sections of titles 18 and 28 of the United States Code enacted by the CCCA to eliminate these technical defects and to make minor substantive revisions. The technical amendments correct typographical, grammatical, and printing errors and conform the style and format of the sections to conventions used generally in titles 18 and 28 of the United States Code. H.R. 5241 also makes technical and minor changes in rules 12.2 and 29 of the Federal Rules of Criminal Procedure and in other provisions of titles 18 and 28 of the United States Code. All of the amendments contained in the bill are uncontroversial.

COMMITTEE CONSIDERATION

Last year, at the request of the Justice Department, the Chairman and the ranking minority member of the Committee introduced H.R. 2774, a bill to make technical and other minor changes to the CCCA. The bill was referred to the Subcommittee on Criminal Justice, which undertook a review of it to determine if the changes proposed in H.R. 2774 were controversial.

The Subcommittee worked with interested groups, such as the Justice Department, the National Association of Criminal Defense Lawyers, the United States Sentencing Commission, the American Bar Association, the United States Parole Commission, the Administrative Office of the United States Courts, and the Federal Public and Community Defenders, in order to draft amendments to remove or modify controversial provisions. If any of the interested organizations objected to a provision, that provision was dropped. The Subcommittee did not limit itself to considering only those changes proposed in H.R. 2774, but also considered provisions of law that H.R. 2774 was not proposing to amend.

On Wednesday, July 23, 1986 the Subcommittee marked up H.R. 2774, adopting all of the changes that had been worked out. The Subcommittee then agreed to report the bill and ordered the bill reported as a clean bill. H.R. 5241 is the clean bill.

The Committee on the Judiciary took up H.R. 5241 on Wednesday, July 30, 1986 and adopted an amendment adding to the bill new sections that were developed in the same manner as H.R. 5241

had been developed. The Committee then voted to report the bill favorably.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill provides that the short title of the legislation is "Criminal Law And Procedure Technical Amendments Act of 1986" (hereinafter referred to as "the Act").

SECTION 2

Section 2 of the bill amends 18 U.S.C. 3673, which defines terms used in chapters 227 ("Sentences") and 229 ("Postsentence Administration") of title 18, United States Code. Section 2(a)(1) redesignates paragraphs (a) through (c) as (1) through (3) so that section 3673 will conform to the convention, used generally in title 18, United States Code, that paragraphs are designated by numbers. Section 2(a)(2) inserts the phrase "the term" at the beginning of each paragraph, again to conform the section to a drafting convention used generally in title 18.

Section 2(b) provides that section 2 takes effect when 18 U.S.C. 3673 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99–217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98–473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 3

Section 3 of the bill repeals 18 U.S.C. 4216, which permits a court to sentence young adult offenders (persons 22 to 26 years old) under the Youth Corrections Act (18 U.S.C. ch. 402). The Youth Corrections Act was repealed effective October 12, 1984 by the CCCA, Pub. L. No. 98–473, § 218(a)(8), 98 Stat. 2027 (1984).

The result is an anomaly. Youthful offender (persons age 21 and under) may no longer be sentenced under the Youth Corrections Act. Young adult offenders, however, because of the failure to repeal 18 U.S.C. 4216, can be sentenced under that Act as it existed on October 12, 1984. The Justice Department holds the view that the repeal of the Youth Corrections Act in effect renders 18 U.S.C. 4216 ineffective. Under either view, 18 U.S.C. 4216 should be repealed, and section 3(a) of the bill does so.

Section 3(b) makes a clerical amendment by striking out the reference to section 4216 in the table of sections at the beginning of chapter 311 of title 18, United States Code.

SECTION 4

Section 4 of the bill amends an erroneous cross-reference in 28 U.S.C. 992(c), which deals with membership on the United States Sentencing Commission. The current provision incorrectly refers to "section *225*(a)(1)(B)(2) of the the Sentencing Reform Act of *1983*" (emphasis added). Section 4 strikes this phrase and inserts the correct reference to "section *235*(a)(1)(B)(2) of the Sentencing Reform Act of *1984*" (emphasis added).

SECTION 5

Section 5 of the bill repeals an obsolete provision in 28 U.S.C. 993(b)(2) added by Pub. L. No. 99-22, 99 Stat. 46 (1985), which authorizes the Administrative Office of the United States courts to make appropriations requests on behalf of the United States Sentencing Commission before the appointment of the Chairman of the Commission. That provision was intended to be an interim measure to enable the initial appropriations requests to be sent to Congress as quickly as possible. *See* 132 Cong. Rec. H1750 (daily ed. April 2, 1985) (remarks of Rep. Conyers). With the appointment of the Chairman and other members of the Commission, there is no longer any need for such a provision, so section 5 deletes it.

SECTION 6

Section 6 of the bill amends provisions of title 28, United States Code, pertaining to service on the United States Sentencing Commission and the duties of the Commission. Section 6(a) amends 28 U.S.C. 992, which deals with the term of office for members of the Commission, to waive a residence requirement for judicial members of the Commission. Federal judges are required by 28 U.S.C. 44(c) and 134(b) to reside within the district or circuit where they sit. Section 6(a) provides that these two provisions do not apply to judges serving on the Commission.

Section 6(b) amends 28 U.S.C. 994, which deals with the duties of the United States Sentencing Commission. Section 6(b)(1) amends 28 U.S.C. 994(h) by deleting a misleading cross-reference. As enacted by the CCCA, Pub. L. No. 98-473, § 217(a), 98 Stat. 2021 (1984), section 994(h) requires the Sentencing Commission to assure that the sentencing guidelines specify a term of imprisonment "at or near the maximum term authorized by section 3581(b) of title 18" in certain circumstances. The reference to section 3581(b) is incorrect because 18 U.S.C. 3559(b)(2), also enacted by the CCCA, Pub. L. No. 98-473, § 212(a)(2) 98 Stat. 1991 (1984), provides that the maximum term of an offense is that term prescribed by the provision of law defining the offense. Section 3581(b) establishes a classification system for Federal offenses and sets forth the maximum imprisonment for each class of offense, and therefore would be relevant only if the provision defining an offense were to classify the offense using the system set forth in that section. *Cf.* S. Rep. No. 223, 98th Cong., 1st Sess. 84 (1983). To date, no Federal offense uses that system.

Section 6(b)(2) makes grammatical corrections in 28 U.S.C. 994 (h) and (i). Section 6(b)(3) amends 28 U.S.C. 994(q) so that the cross-reference is to the "Sentencing Reform Act of *1984*" instead of to the "Sentencing Reform Act of *1983*" (emphasis added).

Section 6(b)(4)(A) amends 28 U.S.C. 994(t), which provides that if the Sentencing Commission reduces a term of imprisonment in a particular guideline, the Commission must specify the amount by which a term being served by a prisoner whose term is "outside the applicable guideline ranges", may be reduced. It is unclear whether the term "outside the applicable guideline ranges" refers to a sentence outside the guideline range at the time the sentence was imposed or that would be outside the new range. Section 6(b)(4)(A) de-

letes that phrase, thus requiring the Sentencing Commission to indicate for *any* person to whom the guideline applies the amount by which that person's term of imprisonment may be reduced.

SECTION 7

Section 7 of the bill amends 18 U.S.C. 3552, which deals with presentence reports. Section 7(a)(1) makes a grammatical correction in 18 U.S.C. 3552(b). Section 7(a)(2) clarifies that a United States marshal is obliged to return to court a defendant for whom a study under 18 U.S.C. 3552(b) is ordered only if the defendant is in the custody of the United States. Section 7(a)(3) clarifies the language of a cross-reference in 18 U.S.C. 3552(c).

Section 7(b) provides that the changes made by section 7 take effect when 18 U.S.C. 3552 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2021 (1984)).

SECTION 8

Section 8 of the bill amends 18 U.S.C. 3553, which deals with imposition of sentence. Section 8(a) amends 18 U.S.C. 3553(b), which requires a court to sentence within the guideline range established by the Sentencing Commission unless the court finds present a factor that was not adequately taken into consideration when the guidelines were formulated. Section 8(a) adds a new sentence that requires the court, in the absence of an applicable guideline, to "impose an appropriate sentence, having due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, the applicable policy statements of the Sentencing Commission, and the purposes of sentencing . . . ." This language is necessary to provide for the situation where there may be no guideline—for example, where a new crime is enacted and a defendant is convicted of that crime before sentencing guidelines for the crime are established.

Section 8(b) provides that the amendment made by section 8 takes effect when 18 U.S.C. 3552 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2021 (1984)).

SECTION 9

Section 9 of the bill amends 18 U.S.C. 3561(a), which authorizes a court to sentence a convicted defendant to probation. Section 9(a) deletes the second sentence of that provision, which provides that a defendant's liability to pay an unexecuted fine or comply with other punishment "as to which probation is granted" is "fully discharged by the fulfillment of the terms and conditions of probation". Because probation is a sentence under the new law, *see* 18 U.S.C. 3551 as added by the CCCA, § 212(a)(2), 99 Stat. 1988 (1984), rather than the suspension of the imposition or execution of sentence, as under present law, *see* 18 U.S.C. 3651, the second sentence of 18 U.S.C. 3561(a) is inappropriate.

Section 9(b) provides that the change made by section 9 takes effect when 18 U.S.C. 3561 takes effect (currently Nov. 1, 1987, *see*

99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat 2031 (1984)).

SECTION 10

Section 10 of the bill amends 18 U.S.C. 3563(b)(11), which sets forth a discretionary condition of probation. Section 10(a) deletes an inaccurate cross-reference, and section 10(b) provides that the change made by this section takes effect when 18 U.S.C. 3563 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 11

Section 11 of the bill amends 18 U.S.C. 3564, which deals with the running of a term of probation. Section 11(a), for the purpose of clarification, rewrites language in 18 U.S.C. 3564(b).

Section 11(b) provides that the amendment made by section 11 takes effect when 18 U.S.C. 3564 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 12

Section 12 of the bill amends 18 U.S.C. 3583(e), which authorizes a sentencing court to modify the terms and conditions of supervised release, which (if ordered) follows a term of imprisonment. Section 12(a)(1) deletes the caption for 18 U.S.C. 3583(e) and inserts a new, more accurate caption. Section 12(a)(2) deletes a redundant phrase.

Section 12(b) provides that the changes made by section 12 take effect when 18 U.S.C. 3583 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 13

Section 13 of the bill amends 18 U.S.C. 3603, which sets forth the duties of probation officers. Section 13(a)(1) redesignates paragraphs (a) through (h) as (1) through (8) in order to conform the section to the convention used generally in title 18, United States Code, that paragraphs are designated by numbers. Section 13(a)(2)(A) amends redesignated paragraph (6), which requires that probation officers "supervise" probationers, to provide that probation officers "*assist* in the supervision of probationers" (emphasis added). This clarifies that the primary responsibility for supervising persons committed to the custody of the Attorney General rests with the Bureau of Prisons and that the role of the Probation Service is ancillary to that of the Bureau of Prisons. In addition, section 13(a)(2)(B) makes a grammatical correction in redesignated paragraph (6).

Section 13(b) provides that the changes made by section 13 take effect when 18 U.S.C. 3603 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2301 (1984)).

SECTION 14

Section 14 of the bill amends the 18 U.S.C. 3624(b) added by the CCCA, § 212(a)(2), 98 Stat. 2008-09 (1984), which deals with "good time" credit for a person serving a term of imprisonment.[1] Section 14(a) revises the language of that 18 U.S.C. 3624(b) to clarify that the good time credit can be earned for the first year of a term of imprisonment.

Section 14(b) provides that the changes made by section 14 take effect when the 18 U.S.C. 3624 added by the CCCA, § 212(a) 98 Stat. 2008-09 (1984), takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 15

Section 15 of the bill amends the 18 U.S.C. 3624(e) added by the CCCA, § 212(a)(2), 98 Stat. 2009 (1984), which deals with supervised release.[2] Section 15(a) amends 18 U.S.C. 3624(e) so that a term of supervised release runs concurrently with a term of probation, supervised release, or parole for any other offense (Federal, State, or local) and that a term of supervised release does not run while the person is serving a term of imprisonment in excess of 30 days for any offense (Federal, State, or local).

Section 15(b) provides that the changes made by section 15 take effect when 18 U.S.C. 3624 takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984)).

SECTION 16

Section 16 of the bill amends 18 U.S.C. 5037, which deals with dispositional hearings for persons adjudicated juvenile delinquents. Section 16(a)(1) corrects a cross-reference in 18 U.S.C. 5037(a). Paragraphs (2) and (3) of section 16(a) amend 18 U.S.C. 5037(c) by deleting incorrect cross-references.[3] Section 16(a)(4) amends 18 U.S.C. 5037(c) to provide that 18 U.S.C. 3624 ("Release of a prisoner") applies to detention of juveniles, and thus permits juveniles to earn "good time" credit.[4]

Section 16(b) provides that the changes made by section 16 take effect when section 214 of the CCCA takes effect (currently Nov. 1, 1987, *see* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 1023 (1984)).

---

[1] The section 3624 presently in effect, which deals with security for a stayed fine, was enacted by the Criminal Fine Enforcement Act of 1984, Pub. L. No. 98-596, § 6(a), 98 Stat. 3138, and will be replaced by the section 3624 being amended by section 14 of the bill.

The Subcommittee is considering legislation that would substantively amend the fine collection and enforcement provisions scheduled to take effect Nov. 1, 1987.

[2] The 18 U.S.C. 3624 amended by section 15 deals with supervised release and takes effect Nov. 1, 1987. *See* Pub. L. No. 99-217, § 2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984). The section 3624 presently in effect was enacted by the Criminal Fine Enforcement Act of 1984, Pub. L. No. 98-596, § 6(a), 98 Stat. 3138, and is scheduled to be replaced by the section 3624 being amended by section 15 of the bill.

[3] They delete references to 18 U.S.C. 3581(b) so that juvenile offenders will not be subjected to the same maximum penalties assessed for adult offenders. A parallel amendment is made by section 3(b) of the bill. *See* discussion at 3, *supra*.

[4] Section 16(a)(4) of the bill amends 18 U.S.C. 5037(c) to include a reference to the 18 U.S.C. 3624 that deals with release of prisoners. *See* n. 1 *supra*.

SECTION 17

Section 17 of the bill amends Rule 12.2 of the Federal Rules of Criminal Procedure ("Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition") by adding to subdivision (c) of that rule a cross-reference to 18 U.S.C. 4241, which deals with determining mental competency to stand trial.

SECTION 18

Section 18 of the bill amends 18 U.S.C. ch. 65 ("Malicious Mischief"). As a result of CCCA, § 1011, 98 Stat. 2141-42 (1984), there are currently two sections numbered 1365 in title 18, United States Code. Section 18(a) redesignates the most recently enacted of those sections, relating to the destruction of an energy facility, as section 1366.

Section 18(b) makes a conforming amendment to the table of sections for 18 U.S.C. ch. 65.

SECTION 19

Section 19 of the bill amends 18 U.S.C. 219, which prohibits a public official of the United States from serving as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938. Section 19(1) deletes redundant language in the first undesignated paragraph and makes that paragraph subsection (a) of 18 U.S.C. 219. Section 19(2) makes the two other undesignated paragraphs in the section subsections (b) and (c).

Section 19(3) both expands and restricts the definition of public official. The present definition refers to the Delegate from the District of Columbia, thereby excluding from the coverage of 18 U.S.C. 219 the Delegates to Congress from Guam, Puerto Rico and the Virgin Islands. There is no good reason why 18 U.S.C. 219 should not cover all Delegates to Congress, so section 19(3) amends the definition of public official in 18 U.S.C. 219 to include all Delegates to Congress.

In addition, section 19(3) deletes jurors from the definition of public official in 18 U.S.C. 219. The definition of "public official" added to 18 U.S.C. 219 by the CCCA, Pub. L. No. 98-473, § 1116, 98 Stat. 2149 (1984), is identical to the definition of that term in 18 U.S.C. 201, which prohibits bribery of public officials. Inclusion of jurors as public officials for that purpose is appropriate, but no good reason is apparent why persons who serve as jurors should not also be able to serve as registered agents of foreign principals.

SECTION 20

Section 20 of the bill amends 18 U.S.C. ch. 25 ("Counterfeiting and Forgery"). As a result of the CCCA, Pub. L. No. 98-473, § 1105, 98 Stat. 2144-45 (1984), there are two sections numbered 511 in title 18, United States Code. Section 20(a)(1) redesignates the most recently enacted of the two, which deals with altering of vehicle identification numbers, as section 513. Section 20(a)(2) transfers the redesignated section so that the redesignated section appears in title 18 after section 512.

Section 20(b) amends the table of sections for 18 U.S.C. ch. 25 to reflect the redesignation made by section 20(a).[5]

SECTION 21

Section 21 of the bill deletes a cross-reference to 18 U.S.C. ch. 207 in 18 U.S.C. 3731, which deals with appeals by the United States. The reference to 18 U.S.C. ch. 207 is unnecessary because chapter 207, by its own terms, states that it applies in the circumstances described in 18 U.S.C. 3731.

SECTION 22

Section 22 of the bill amends 18 U.S.C. 2232, which deals with the destruction or removal of property in order to prevent lawful seizure, to correct an obvious typographical error. The penalty provision of 18 U.S.C. 2232 presently provides that a person convicted of violating the section is to be imprisoned for "more than 5 years." Thus, 5 years is a minimum term (if a prison term is imposed) and there is no statutory maximum. Since federal offenses ordinarily are drafted to state precisely what the maximum possible prison term is, section 22 restores the original intent of the law and inserts "not" before "more than", thereby making 5 years the maximum prison term.

SECTION 23

Section 23 of the bill amends 18 U.S.C. 20, which defines the insanity defense. Since there is presently no section 17, 18, or 19 in title 18, United States Code, there is no reason for the section defining the insanity defense (which was enacted by CCCA, Pub. L. No. 98-473, § 402, 98 Stat. 2057 (1984)) to be designated as "20". Section 24(a) therefore renumbers the section as "17".

Section 23(b) makes a conforming change in the table of sections for 18 U.S.C. ch. 1.

SECTION 24

Section 24 of the bill amends section 235(a)(1)(B) of the CCCA, which sets forth the effective date provisions for the Sentencing Reform Act of 1984 (Pub. L. No. 99-217, title II, ch. 2, 98 Stat. 1987-2040 (1984)). Section 24(1) amends section 235(a)(1)(B)(i) to clarify that a reference to "the chapter" means chapter 58 of title 28, United States Code. Section 235(a)(1) of the CCCA provides that the bulk of the provisions of the Sentencing Reform Act of 1984 take effect thirty months after enactment—i.e., on Nov. 1, 1987. *See* Pub. L. No. 99-217, § 2, 99 Stat. 1720 (1985), amending Pub. L. No. 98-473, § 235(a)(1), 98 Stat. 2031 (1984). The sentencing guidelines, however, are to take effect six months after they are submitted to Congress, which can be no later than April 12, 1987. *See* CCCA,

[5] Because of a typographical error, the CCCA, Pub. L. No. 98-473, § 1105(b), 98 Stat. 2145 (1984), had incorrectly amended the table of sections for 18 U.S.C. ch. 25 by identifying the new section added by CCCA, Pub. L. No. 98-473, § 1105(a), 98 Stat. 2144-45 (1984), as section "510" instead of "511". Section 20(b)(1) of the bill deletes the section "510" entry from the table of sections for 18 U.S.C. ch. 25, and section 20(b)(2) adds an entry reflecting the redesignation of section 20(a)(1).

§ 235(a)(1)(B)(i), (ii), 98 Stat. 2031-2032 (1984). Thus, the sentencing guidelines will take effect, at the latest, on October 12, 1987, at least 19 days before the bulk of the provisions of the Sentencing Reform Act take effect. These two effective dates should be the same, so section 24(2) amends CCCA section 235(a)(1)(B)(ii) to change the effective date of the sentencing guidelines to be the same as the effective date for the bulk of the provisions of the Sentencing Reform Act of 1984, November 1, 1987.

SECTION 25

Section 25 of the bill makes stylistic and grammatical changes in 18 U.S.C. 1201(a), which deals with kidnapping.

SECTION 26

Section 26 of the bill amends 18 U.S.C. 115(b)(2), which provides that "A kidnapping or attempted kidnapping in violation of this section shall be punished as provided in section 1201 of this title." Section 26(a) makes the reference 18 U.S.C. 1201 more precise by specifically referring to 18 U.S.C. 1201(a)(5).

Section 26(b) amends 18 U.S.C. 1201(d), which provides punishment for the attempted kidnapping of certain officials, but not of officials listed in 18 U.S.C. 1114. Thus, there is an anomalous situation. It is a federal offense to attempt to kidnap a member of the family of an official listed in 18 U.S.C. 1114, but it is not a federal offense to attempt to kidnap the official. Section 26(b) rectifies this by amending 18 U.S.C. 1201(d) to cover attempts to kidnap officials listed in 18 U.S.C. 1114.

SECTION 27

Section 27 of the bill amends 18 U.S.C. ch. 1, entitled "General Provisions". Section 27(a) adds to that chapter a new section that defines the term "organization" to mean "a person other than an individual". This codifies a general understanding of what that term has meant when used in title 18 of the United States Code.[6]

Section 27(b) makes a conforming change to the table of sections at the beginning of 18 U.S.C. ch. 1.

SECTION 28

Section 28 of the bill amends 28 U.S.C. 1921, which deals with fees that the United States marshal can collect. Most of the changes made by section 28 are stylistic and are made for the sake of clarity and consistency. Section 28(a)(15), however, inserts at the end of 28 U.S.C. 1921 a new subsection that authorizes the United States Marshal's Service (to the extent authorized in advance in appropriations Acts) to credit to the Service's appropriation all fees, commissions, and expenses collected for the service of civil process and seizures, levies, and sales associated with judicial orders of execution; and to use the credited amounts for carrying out such activities.

---

[6] *See, e.g.* 18 U.S.C. 3623, dealing with criminal fines, which distinguishes between an "individual" and a "person (other than an individual)."

Section 28(b) provides that the changes made by section 28 take effect thirty days following the enactment of the Act.

SECTION 29

Section 29 of the bill amends 18 U.S.C. ch. 113 to eliminate duplicative section designations. There are presently two sections in that chapter designated "2320". Section 26(a) redesignates as "2321" the most recently enacted of the two, which was enacted by Pub. L. No. 98-547, 98 Stat. 2754 (1984), and which deals with trafficking in motor vehicles or motor vehicle parts that have altered or removed identification numbers.

SECTION 30

Section 30 of the bill makes parallel amendments to 18 U.S.C. 1028 and 1029. Section 30(a) amends 18 U.S.C. 1029, which deals with computer fraud in connection with access devices. Subsection (f) of 18 U.S.C. 1029 provides that that section does not prohibit any activity authorized under "title V of the Organized Crime Control Act of 1970) 18 U.S.C. note prec. 3481)" [sic]. Title V, however, was repealed by the CCCA, § 1209(b), 98 Stat. 2163 (1984). The correct cross-reference now is to 18 U.S.C. ch. 224, ("Protection of Witnesses"), which was enacted by the CCCA, § 1208, 98 Stat. 2153-63 (1984). Section 30(a), therefore, strikes out the erroneous cross-reference and replaces it with a reference to 18 U.S.C. ch. 224. Section 30(b) makes a parallel correction in 18 U.S.C. 1028, which deals with fraud in connection with identification devices.

SECTION 31

Section 31 of the bill expands 18 U.S.C. 201, which deals with bribery of public officials and witnesses, to cover all Delegates to Congress. Section 31 also makes technical changes in format and language in 18 U.S.C. 201 to conform that section with the drafting conventions used generally in title 18 of the United States Code. The technical changes consist of designating or redesignating paragraphs and subparagraphs, aligning margins, eliminating superfluous language, and replacing gender specific language with gender neutral terms. The changes do not substantively alter the provisions of 18 U.S.C. 201.

The expansion of 18 U.S.C. 201 is effectuated by section 31(a)(2)(B), which amends the definition of "public official" in 18 U.S.C. 201(a) to include all Delegates to Congress, not just the Delegate from the District of Columbia.[7] The other parts of section 31(a) make the technical amendments described above.

Section 31(b) makes the technical amendments described above to 18 U.S.C. 201(b); section 31(c) makes the technical amendments described above to 18 U.S.C. 201(c); section 31(d) makes the technical amendments described above to 18 U.S.C. 201(d); section 31(e) makes the technical amendments described above to 18 U.S.C. 201(e); section 31(f) makes the technical amendments described above to 18 U.S.C. 201(f); section 31(g) makes the technical amend-

[7] A parallel amendment to 18 U.S.C. 219 is made in section 19(3) of the bill. *See* p. 8, *supra*.

ments described above to 18 U.S.C. 201(g); section 31(h) makes technical amendments described above to 18 U.S.C. 201(h); section 31(i) makes the technical amendments described above to 18 U.S.C. 201(i); section 31(j) makes the technical amendments described above to 18 U.S.C. 201(j); section 31(k) makes the technical amendments described above to 18 U.S.C. 201(k); section 31(l) makes the technical amendments described above to 18 U.S.C. 201(l).

Section 31(m) provides that the changes made by section 31 take effect thirty days after the enactment of the Act.

SECTION 32

Section 32 of the bill expands 18 U.S.C. 203, which prohibits Federal officials from receiving compensation otherwise than as provided by law for services rendered in connection with a proceeding in which the United States is a party, to cover all delegates to Congress. Section 32 also makes technical amendments in format and language in 18 U.S.C. 203 to conform that section with the drafting conventions used generally in title 18 of the United States Code.

The expansion of 18 U.S.C. 203 is effectuated by section 32(a)(1)(D), which amends 18 U.S.C. 203(a) to cover all Delegates to Congress, not just the Delegate from the District of Columbia.[8] The other parts of section 32(a) make the technical amendments described above to 18 U.S.C. 203(a), (b), and (c).

Section 32(b) provides that the changes made by section 32 take effect thirty days following the enactment of the Act.

SECTION 33

Section 33 of the bill amends the Victims of Crime Act of 1984, Pub. L. No. 98–473, title II, ch. 14, 98 Stat. 2170–78 (1984). That Act creates a Crime Victims Fund and authorizes grants to the states for the purpose of aiding crime victim assistance programs. Section 1402(e) of the Act provides that "any sums awarded as part of a grant under this chapter [i.e., chapter 14, title II, of the CCCA] that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year". Under the current deadline, grantee States may not be able to obligate funds due to the timing of legislative sessions, budget intricacies, and State contracting processes. This may result in either a return of unspent funds or a rash expenditure in order to avoid returning the funds. Section 33 amends the provision by enlarging to two fiscal years the time limit during which the money can be spent.

SECTION 34

Section 34 of the bill amends 18 U.S.C. 3143, which deals with the detention or release of a defendant pending sentencing or appeal. Section 3143(b)(2) requires the detention of a person found guilty and sentenced to a term of imprisonment who files for an appeal, unless the judicial officer finds that the appeal is "not for

[8] Parallel amendments to 18 U.S.C. 219 and 201 are made, respectively, in section 19(3) of the bill and section 31(a)(2)(B) of the bill. *See* pp. 8, 11, *supra*.

delay, but rather raises a substantial question of law or fact," and that the appeal would likely result in a reversal or a new trial. Section 34(a)(1) modifies 18 U.S.C 3143(b)(2) to permit the judicial officer to release the defendant, in addition, if the appeal would likely result in a sentence that does not include imprisonment.

Section 34(a)(2) amends 18 U.S.C. 3143(c), which requires that a convicted defendant, in a case that the United States appeals under 18 U.S.C. 3731, be released or detained under 18 U.S.C. 3142 (unless the defendant is otherwise subject to a release or detention order). Section 34(a)(2) amends that provision to require, when the United States appeals sentence under 18 U.S.C. 3742, that the judicial officer, except as provided in 18 U.S.C. 3143(b), detain a defendant sentenced to a term of imprisonment, and release or detain the defendant under 18 U.S.C. 3142 in any other circumstance.

Section 34(b) repeals the amendment to 18 U.S.C. 3143 made by section 223(f)(2) of the CCCA, 98 Stat. 2028 (1984). Section 223(f)(2) of the CCCA amended 18 U.S.C. 3143 to take into account that a sentence may be appealed once the bulk of the Sentencing Reform Act's provisions take effect. However, the amendment made by section 223(f)(2) failed to address whether a convicted defendant could be released on appeal. It was not clear whether a defendant who appealed the sentence, rather than the conviction, could be released pending appeal. Furthermore, section 223(f)(2) created an anomalous situation in which a defendant sentenced to imprisonment would be released pending an appeal of the sentence by the United States. Section 34(a) supersedes section 223(f)(2) and places a defendant who appeals sentence in the same position as a defendant who appeals conviction. Section 34(a) also clarifies that a defendant sentenced to a term of imprisonment who is not appealing, will remain in custody pending a government appeal of sentence.

Section 34(c) provides that section 34(a)(2) of the bill takes effect on Nov. 1, 1987. *See* Pub. L. No. 99-217, §2, 99 Stat. 1728 (1985), amending Pub. L. No. 98-473, §235(a)(1), 98 Stat. 2031 (1984). Section 34(c) also provides that sections 34(a)(1) and 34(b) take effect upon the enactment of the Act.

SECTION 35

Section 35 of the bill revises 18 U.S.C. 1791, which prohibits possession of contraband in prison. Section 35(a) redrafts the provision according to the style and format generally used in title 18 of the United States Code. Several substantive changes are made: (1) the penalty for possession of LSD and PCP is increased over present 18 U.S.C. 1791, from a maximum imprisonment of one year to a maximum imprisonment of five years; (2) the penalty for possession of ammunition is increased from a maximum imprisonment of six months to a maximum imprisonment of five years; and (3) the clause prohibiting possession of "any other object" is limited to an object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual.

Section 35(b) provides that the changes made by section 35 take effect thirty days following the enactment of the Act.

SECTION 36

Section 36 of the bill amends 18 U.S.C. 1792, which prohibits the instigation of riots at Federal penal or correctional facilities. Section 36(a) expands 18 U.S.C. 1792 to cover Federal detention facilities.

Section 36(b) provides that the change made in section 36 takes effect thirty days after the enactment of the Act.

SECTION 37

Section 37 amends Rule 29 of the Federal Rules of Criminal Procedure, which deals with motions for acquittal, by inserting a new subdivision. Section 37(a) inserts the new subdivision, which authorizes the trial court to make a conditional ruling on a motion for a new trial when the trial court grants a motion for a judgment of acquittal. If the trial court grants the new trial motion conditionally and the appellate court reverses the trial court's granting of the motion for the judgment of acquittal, a new trial proceeds unless the appellate court orders otherwise. If the trial court denies the new trial motion conditionally and the appellate court reverses the trial court's granting of the motion for judgment of acquittal, any subsequent proceeding is carried out in accordance with the order of the appellate court.

Section 37(b) provides that the change made by section 37 of the bill takes effect thirty days after the enactment of the Act.

SECTION 38

Section 38 of the bill amends 18 U.S.C. ch. 207, entitled "Release and Detention Pending Judicial Proceedings". Section 38 makes stylistic, grammatical, and other such changes in the provisions of that chapter in order to conform those provisions to the drafting style and conventions used generally in title 18 of the United States Code. There is one substantive change. Section 38(c)(3)(f) amends 18 U.S.C. 3142(c), which deals with conditions that can be imposed upon a person who is ordered released pending trial. A judicial officer is authorized by 18 U.S.C. 3142(c)(2)(J) to condition release upon the person's undergoing "available medical or psychiatric treatment". Section 38(c)(3)(F) expands this provision to include conditioning release upon the person's undergoing available "psychological" treatment.

Section 38(j) provides that the amendments made by section 38 take effect thirty days following the enactment of the Act.

SECTION 39

Section 39 of the bill corrects a printing error in Pub. L. No. 99-363, 99 Stat. —— (1986) (amending 28 U.S.C. 994(b)(2)).

SECTION 40

Section 40 of the bill amends provisions in title 18, United States Code, which deal with disclosure of information about convicted defendants and with parole regions. Section 40(a) amends 18 U.S.C.

4082 to require that the Attorney General disclose certain information to a State or local law enforcement agency, upon request.

Section 40(b) makes a parallel amendment to 18 U.S.C. 4203, requiring the Parole Commission to make such disclosures.

Section 40(c) amends 18 U.S.C. 4203(a)(2), which requires that there be at least five parole regions, to permit a reduction in the number of such regions. The Parole Commission is being phased out and will expire in 1992. *See* CCCA, § 235(b), 98 Stat. 2032–33 (1984). Section 40 permits a reduction of the number of parole regions to assist in the phasing out process.

SECTION 41

Section 41 of the bill amends provisions of title 18, United States Code, which deal with the Parole Commission. Section 41 is intended to facilitate the phasing out of the Parole Commission, mandated by the CCCA. *See* CCCA, § 235(b), 98 Stat. 2032–33 (1984). Section 41(a) amends 18 U.S.C. 4204(a), which authorizes the Parole Commission Chairman to designate Parole Commission members as members of the National Appeals Board, by expanding the number of appointments from "three" to "not fewer than three". Because there are nine members of the Parole Commission, a reduction in the number of regions (*see* discussion of section 40 *supra*) may necessitate an increase in the number of appointments to the National Appeals Board.

Section 41(b) amends 18 U.S.C. 4208(g), which deals with parole determination proceedings and requires that the Parole Commissioners hold a personal conference with a prisoner denied parole. Section 41(b) reduces the number of Parole Commissioners who must be present at the conference.

Section 41(c) amends 18 U.S.C. 4209(d)(1), which requires a ten day notice by the Commission prior to modification of the conditions for parole. Section 41(c) amends that provision to permit a waiver of the notice period "if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public".

Section 41(d) amends 18 U.S.C. 4210(b)(2), which deals with jurisdiction of the Parole Commission over a parolee. The Parole Commission is authorized by 18 U.S.C. 4210(b)(2) to determine to what extent a term of parole runs concurrently with any term of imprisonment for a "Federal, State, or local crime" committed while on parole. Section 41(d) expands this provision to include offenses under Indian Tribal government laws and foreign laws.

Section 41(e) repeals 18 U.S.C. 4210(e), an obsolete provision that deals with parole of prisoners sentenced before 1932. Section 41(f) makes changes in 18 U.S.C. 4241, which deals with parole, that are parallel to the changes made by section 41(d) in 18 U.S.C. 4210(b)(2). Section 41(f) amends 18 U.S.C. 4214(b)(1), which deals with revocation of parole, to include persons convicted of crimes by a foreign or Indian Tribal government. Section 41(g)(1) repeals section 4217, which deals with warrants to retake Canal Zone parole violators. Section 41(g)(2) makes a conforming change in the table of sections for 18 U.S.C. ch. 311.

SECTION 42

Section 42 of the bill amends 18 U.S.C. 666, which deals with theft or bribery concerning programs receiving federal funds. Section 42 clarifies that 18 U.S.C. 666 covers programs of Indian Tribal governments and Tribal government agencies. In addition, section 42 amends 18 U.S.C. 666 to avoid its possible application to acceptable commercial and business practices.[9] Section 42 also makes technical amendments in 18 U.S.C. 666 to conform that section to the drafting style and format used generally in title 18 of the United States Code.

SECTION 43

Section 43 of the bill amends 18 U.S.C. 115(a), which extends protection to family members of certain Federal officials to the officials themselves.

SECTION 44

Section 44 of the bill amends 18 U.S.C. 1512, which deals with witness intimidation, by inserting a new subsection dealing explicitly with killing or attempting to kill a Federal witness. In *United States* v. *Dawlett,* No. 85-1047 (1st Cir. April 2, 1986), the First Circuit held that killing a witness did not constitute an attempt to influence that person's testimony under 18 U.S.C. 1512. Section 44 overturns *Dawlett* and amends 18 U.S.C. 1512 expressly to include killing or attempting to kill a Federal witness.

SECTION 45

Section 45 of the bill expands 18 U.S.C. 351, which proscribes killing, assaulting, or kidnapping certain Federal officials (or attempting or conspiring to do so). Section 45(l) expands the officials covered to include "a major Presidential or Vice Presidential candidate".[10] Section 45(2) makes a technical amendment to 18 U.S.C. 351(h).

SECTION 46

Section 46 of the bill amends 18 U.S.C. 875, which prohibits the use of interstate commerce or communication for the purpose of extortion or to demand a kidnapping ransom, by expanding the provision to cover foreign commerce or communication. This overturns the result in *United States* v. *Lopez-Flores,* 592 F. Supp. 1302 (W.D. Tex. 1984).

---

[9] 18 U.S.C. 666 prohibits bribery of certain public officials, but does not seek to constrain lawful commercial business transactions. Thus, 18 U.S.C. 666 prohibits corruptly giving or receiving anything of value for the purpose of influencing or being influenced in connection with any business, transaction, or series of transactions. The provision parallels the bank bribery provision (18 U.S.C. 215). *See* Pub. L. No. 99-370, 99 Stat. —— (1986). *See also* H.R. REP. No. 335, 99th Cong., 1st Sess. (1985); 131 CONG. REC. H-9275 (daily ed. Oct. 29, 1985) (remarks of Rep. Conyers.)

[10] The term "major Presidential or Vice Presidential candidate" is defined in 18 U.S.C. 3056 to mean "those individuals identified as such by the Secretary of the Treasury after consultation with an advisory committee consisting of the Speaker of the House of Representatives, the minority leader of the House or Representatives, the majority and minority leaders of the Senate, and one additional member selected by the other members of the committee".

SECTION 47

Section 47 of the bill amends 18 U.S.C. ch. 87 (entitled "Prisons"), by inserting a new section at the end of the chapter. Currently, trespass upon Bureau of Prisons property is prosecuted under the Assimilative Crime Act, 18 U.S.C. 13. This means that the offense is defined and punished according to the laws of the state in which the Bureau of Prisons property is located.[11] Consequently, there is no uniform standard applicable to all Bureau of Prisons properties. Section 47 provides such a standard by adding new section 1793, which makes it an offense for a person to enter Bureau of Prisons premises "without lawful authority or permission".[12]

Section 47(b) amends the table of sections at the beginning of chapter 87 to add a reference to the new section.

SECTION 48

Section 48 of the bill amends 18 U.S.C. 3050, which deals with the authority of officials and employees of the Bureau of Prisons to make arrests. Currently, 18 U.S.C. 3050 authorizes Bureau of Prisons personnel to make arrest, without warrant, for violations of 4 provisions, if there is reasonable grounds to believe that the person arrested is guilty of the offense and there is a likelihood that the person arrested will flee before a warrant can be obtained. The 4 provisions are: 18 U.S.C. 751 (escape), 752 (assisting escape), 1791 (contraband), and 1792 (mutiny and riot).

Section 48(a) amends 18 U.S.C. 3050 to expand the number of offenses for which the Bureau of Prisons personnel can make arrests if there is reasonable ground to believe that the arrested person is guilty and if there is likelihood that the person will escape before an arrest warrant can be obtained. New 18 U.S.C. 3050(1) authorizes Bureau of Prisons personnel to make arrests anywhere for violations of 18 U.S.C. 111 (assaulting officers), 751 (escape), and 752 (assisting escape), and of 28 U.S.C. 1826(c) (escape). New 18 U.S.C. 3050(2) authorizes Bureau of Prisons personnel to make arrests on Bureau of Prisons premises for violations there of 18 U.S.C. 661 (theft), 1361 (depredation of property), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass). New 18 U.S.C. 3050(3) authorizes Bureau of Prisons personnel to arrest for any other offenses under titles 18 or 28 of the United States Code committed on Bureau of Prisons premises if the arrest is necessary to safeguard security, good order, or government property.

Section 48(b) amends the second sentence of 18 U.S.C. 3050 to eliminate a personal pronoun.

SECTION 49

Section 49 of the bill amends 18 U.S.C. 5003(a) which authorizes the Federal Government to assume responsibility for persons con-

[11] *See generally* H.R. REP. No. 1396, 96th Cong., 2d Sess. 414–28 (1980).

[12] The *mens rea* for the offense is knowingly. Thus to be guilty of trespass, under section 1793, a person must know that he or she lacks authority or permission to be on the premises. *See id.* at 33.

victed by State courts, by expanding the provision to include exchange of convicts between the Federal Government and State or Indian Tribal government. The present section 5003(a) requires reimbursing for the costs of accepting a prisoner, but does not authorize contracts of exchange of prisoners, rather than or as part of cost reimbursement. Section 49 provides for contracts of exchange between the Federal Government and State or Indian Tribal governments.

SECTION 50

Section 50 of the bill amends 18 U.S.C. ch. 303 (entitled "Bureau of Prisons"), by inserting two new sections (4044 and 4045) at the end of that chapter. At present, the Attorney General is not authorized to accept donations of money or gifts for use by the Bureau of Prisons. Section 50(a) provides this authority to the Attorney General in new section 4044.

Current law does not authorize Bureau of Prisons personnel to order autopsies on the bodies of deceased inmates.

Section 50(a) provides such authority in new 18 U.S.C. 4045, which authorizes a chief executive officer of a Federal penal, correctional, or detention facility to order autopsies and other related scientific or medical tests when such autopsy or test is "necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or protect the United States".

Section 50(b) amends the table of sections at the beginning of chapter 303 to add references to the new sections.

SECTION 51

Section 51 of the bill amends 18 U.S.C. 2113(a), which deals with bank robbery. Currently 18 U.S.C. 2113(a) covers the taking of property of a federally insured bank by force and violence or by intimidation, if the taking was "from the person or presence of another". Federal courts are divided over the question whether this provision proscribes extortionate conduct—e.g., a perpetrator who, from a place outside the bank, threatens the family of a bank official in order to cause the bank official to remove money from the bank and deliver it to a specified location.[13] Some courts have held that such conduct may be prosecuted under 18 U.S.C. 2113(a).[14] Some courts have held that such conduct may be prosecuted under the Hobbs Act.[15] Still other courts have determined that such conduct may be prosecuted under either provision.[16]

There is no gap in federal law. Extortionate conduct is prosecutable either under the bank robbery provision or the Hobbs Act,

---

[13] *Compare, e.g.*, Brinkley v. United States, 560 F 2d 871 (8th Cir.), *cert. denied*, 434 U.S. 941 (1977) (conduct covered); *with* United States v. Culbert, 548 F.2d 1355 (9th Cir. 1977), *rev'd and remanded on other grounds*, 435 U.S. 371 (1978), *aff'd on remand*, 581 F.2d 799 (1978) (conduct not covered).

[14] *Compare, e.g.*, United States v. Beck, 511 F.2d 997 (6th Cir.), *cert. denied*, 423 U.S. 836 (1975); United States v. Snell, 550 F.2d 515 (9th Cir. 1977).

[15] *E.g.*, United States v. Culbert, 548 F.2d 1355 (9th Cir. 1977), *rev'd and remanded on other grounds*, 435 U.S. 371 (1978), *aff'd on remand*, 581 F.2d 799 (1978).

[16] *E.g.*, United States v. Golay, 560 F.2d 866 (8th Cir. 1977); United States v. Carpenter, 611 F.2d 113 (5th Cir. 1980), *cert. denied*, 447 U.S. 922 (1980).

both of which carry the same maximum prison term (20 years). However, clarification as to which should be the applicable statute is desirable.

The Justice Department believes that the natural and appropriate vehicle for prosecuting extortionate activity involving the obtaining of bank monies is 18 U.S.C. 2113(a), rather than the Hobbs Act, which has the purpose of safeguarding the channels of interstate and foreign commerce from the adverse effects of robbery and extortion. The Committee concurs. Accordingly, section 51 amends 18 U.S.C. 2113(a) expressly to cover crimes of extortion directed at federally insured banks. The Committee intends to overrule those cases holding that only the Hobbs Act applies, and those cases holding that both the Hobbs Act and 18 U.S.C. 2113(a) apply, in order to make 18 U.S.C. 2113(a) the exclusive provision for prosecuting bank extortion. The term "extortion" as used in 18 U.S.C. 2113(a) means obtaining property from another person, without the other person's consent, induced by the wrongful use of actual or threatened force, violence, or fear.

Oversight Finding

The Committee makes no oversight findings with respect to this legislation.

In regard to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to this Committee by the Committee on Government Operations.

New Budget Authority

In regard to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, H.R. 5142 creates no new budget authority or increased tax expenditures for the Federal Government.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill will have no inflationary impact on prices or costs in the operation of the national economy.

Federal Advisory Committee Act of 1972

The Committee finds that this legislation does not create any new advisory committee within the meaning of the Federal Advisory Committee Act of 1972.

Statement of the Congressional Budget Office

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 8, 1986.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, DC

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 5241, the Criminal Law and Procedure Technical

Amendments Act of 1986, as ordered reported by the House Committee on the Judiciary, July 30, 1986.

H.R. 5241 includes a number of amendments to the Comprehensive Crime Control Act (CCCA). These amendments are generally technical or clarifying in nature. While there are some provisions of this bill that could result in small costs or savings, overall we expect it to have no significant cost to the federal government and no cost to state or local governments.

Section 28 of this bill authorizes the United States Marshals Service to credit amounts collected for service of civil process and certain seizures and sales against its appropriation. As these collections have been returned to the general Treasury in the past, this will increase funds available to the Marshals Service. This change is not expected to have a large impact, however. The total amount collected in service of civil process in 1985 was $85,000.

Several provisions in this bill expand the scope of federal criminal offenses. Section 44 would make it a federal offense to kill a witness, while Section 46 expands the provision prohibiting the use of interstate commerce for the purpose of extortion or to demand a kidnapping ransom to include foreign commerce. Section 47 of this bill makes trespassing on land or facilities of the Bureau of Prisons punishable by a fine of not more than $500 or imprisonment for not more than 6 months, or both. CBO does not expect these changes to have any significant budgetary impact.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD GRAMLICH
(For Rudolph G. Penner, Director).

COST ESTIMATE

In regard to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee agrees with the cost estimate of the Congressional Budget Office and estimates that the enactment of this legislation will not result in any significant cost to the Federal Government, and will not result in any cost to State and local governments.

COMMITTEE VOTE

The Committee reported H.R. 5241 on August 4, 1986, by voice vote, a quorum of Members being present.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

TITLE 18, UNITED STATES CODE

* * * * * * *

PART I—CRIMES

* * * * * * *

CHAPTER 1—GENERAL PROVISIONS

Sec.
1. Offenses classified.
2. Principals.
3. Accessory after the fact.
4. Misprision of felony.
5. United States defined.
6. Department and agency defined.
7. Special maritime and territorial jurisdiction of the United States defined.
8. Obligation or other security of the United States defined.
9. Vessel of the United States defined.
10. Interstate commerce and foreign commerce defined.
11. Foreign government defined.
12. United States Postal Service defined.
13. Laws of States adopted for areas within Federal jurisdiction.
14. Applicability to Canal Zone; definition.
15. Obligation or other security of foreign government defined.
16. Crime of violence defined.
[20]. *17.* Insanity Defense.
18. Organization defined.

* * * * * * *

§ 18. Organization defined

As used in this title, the term "organization" means a person other than an individual.

* * * * * * *

CHAPTER 7—ASSAULT

* * * * * * *

§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member

(a) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under [18 U.S.C. 1114, as amended,] *section 1114 of this title, or threatens to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section* with intent to impede, intimidate, interfere with, or retaliate against such official, judge or law enforcement officer while he is engaged in or on account of the performance of his official duties, shall be punished as provided in subsection (b).

(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title *for the kidnaping or attempted kidnaping of a person described in section 1201(a)(5) of this title.*

(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

(4) A threat made in violation of this section shall be punished by a fine of not more than $5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

* * * * * * *

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

* * * * * * *

§ 201. Bribery of public officials and witnesses

(a) For the purpose of this [section:] *section—*

(1) the term "public official" means Member of Congress, [the Delegate from the District of Columbia,] *Delegate,* or Resident Commissioner, either before or [after he has qualified,] *after such official has qualified,* or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a [juror; and] *juror;*

(2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that [he will be] *such person will be* so nominated or appointed; and

(3) the term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, [in his official capacity, or in his] *in such official's official capacity, or in such official's* place of trust or profit.

[(b) Whoever, directly] *(b) Whoever—*

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

[(1)] *(A)* to influence any official act; or

[(2)] *(B)* to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

[(3)] *(C)* to induce such public official or such person who has been selected to be a public official to do or omit

to do any act in violation of [his lawful duty, or] *the lawful duty of such official or person;*

[(c) Whoever, being]

(2) being a public official or person selected to be a public official, directly or indirectly, [corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself] *corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally* or for any other person or entity, in return for:

[(1)] *(A)* being influenced in [his performance of any official act; or] *the performance of any official act;*

[(2)] *(B)* being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or

[(3)] *(C)* being induced to do or omit to do any act in violation of [his official duty; or] *the official duty of such official or person;*

[(d) Whoever, directly]

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself [therefrom; or] *therefrom;*

[(e) Whoever, directly]

(4) directly or indirectly, corruptly [asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself] *demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally* or for any other person or entity in return for being influenced [in his testimony] *in testimony* under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself [therefrom—] *therefrom;*

[Shall] *shall* be fined not more than [$20,000 or] three times the monetary equivalent of the thing of value, [whichever is greater], or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

[(f) Whoever, otherwise] *(c) Whoever—*

(1) otherwise than as provided by law for the proper discharge of [official duty, directly] *official duty—*

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

[(g) Whoever, being]

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or [indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself] *indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally* for or because of any official act performed or to be performed [by him or] *by such official or person;*

[(h) Whoever, directly]

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or [because of his absence therefrom; or] *because of such person's absence therefrom;*

[(i) Whoever, directly]

(3) directly or indirectly, [asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive] *demands, seeks, receives, accepts, or agrees to receive or accept* anything of value [for himself] *personally* for or because of the testimony under oath or affirmation given or to be [given by him] *given by such person* as a witness upon any such trial, hearing, or other proceeding, or for or because of [his absence therefrom—] *such person's absence therefrom;*

[Shall] *shall* be fined [not more than $10,000] *under this title* or imprisoned for not more than two years, or both.

[(j) Subsections (d), (e), (h), and (i)]

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, [involving a technical or professional opinion,] a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

[(k) The]

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

* * * * * * *

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or [indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any] *indirectly*—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any services rendered or to be rendered either [by himself or another—] *personally or by another—*

[(1) at a time when he]

(A) at a time when such person is a Member of Congress, Member of Congress Elect, [Delegate from the District of Columbia, Delegate Elect from the District of Columbia] *Delegate, Delegate Elect,* Resident Commissioner, or Resident Commissioner Elect; or

[(2) at a time when he]

(B) at a time when such person is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission[,]; or

[(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives]

(2) knowingly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Delegate, Commissioner, officer, or [employee—] *employee;*

[Shall be fined not more than $10,000] *shall be fined under this title* or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

[(c)] *(b)* A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or [parties (1) in which he] *parties—*

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or [otherwise, or (2) which is pending] *otherwise; or*

(2) which is pending in the department or agency of the Government [in which he is serving: *Provided,* That clause (2)] *in which such employee is serving except that paragraph (2) of this subsection of* shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

* * * * * * *

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

* * * * * * *

§ 219. Officers and employees acting as agents of foreign principals

[Whoever, being a public official of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.] *(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined under this title or imprisoned for not more than two years, or both.*

(b) Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) For the purpose of this section "public official" means Member of Congress, [the Delegate from the District of Columbia] *Delegate,* or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Governments thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government[, or a juror].

* * * * * * *

CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT

* * * * * * *

§ 351. Congressional, Cabinet and Supreme Court assassination, kidnaping, and assault; penalties

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, *a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)* or a Justice of the United States, as defined section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.

* * * * * * *

(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the [offense] *individual* was an official protected by this section.

* * * * * * *

CHAPTER 25—COUNTERFEITING AND FORGERY

Sec.
510. Forging endorsements on Treasury checks or bonds or securities of the United States.
[510. Securities of the State and private entities.]
511. Altering or removing motor vehicle identification numbers.
512. Forfeiture of certain motor vehicles and motor vehicle parts.
513. Securities of the States and private entities.

* * * * * * *

[§ 511.] *§ 513.* Securities of the States and private entities

(a) Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than $250,000 or imprisoned for not more than ten years, or both.

(b) Whoever makes, receives, possesses, sells or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by a fine of not more than $250,000 or by imprisonment for not more than ten years, or both.

(c) For purposes of this section—

(1) the term "counterfeited" means a document that purports to be genuine but is not, because it has been falsely made or manufactured in its entirety;

(2) the term "forged" means a document that purports to be genuine but is not because it has been falsely altered, completed, signed, or endorsed, or contains a false addition thereto or insertion therein, or is a combination of parts of two or more genuine documents;

(3) the term "security" means—

(A) a note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, bill, check, draft, warrant, debit instrument as defined in section 916(c) of the Electronic Fund Transfer Act (15 U.S.C. 1693(c)), money order, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest in or participation in any profit-sharing agreement, collateral-trust certificate, pre-reorganization certificate of subscription, transferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property;

(B) an instrument evidencing ownership of goods, wares, or merchandise;

(C) any other written instrument commonly known as a security;

(D) a certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing; or

(E) a blank form of any of the foregoing;

(4) the term "organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association or persons which operates in or the activities of which affect interstate or foreign commerce; and

(5) the term "State" includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.

* * * * * * *

CHAPTER 31—EMBEZZLEMENT AND THEFT

[§ 666. Theft or bribery concerning programs receiving Federal funds

[(a) Whoever, being an agent of an organization, or of a State or local government agency, that receives benefits in excess of $10,000 in any one year period pursuant to a Federal program involving a grant, a contract, a subsidy, a loan, a guarantee, insurance, or another form of Federal assistance, embezzles, steals, purloins, willfully misapplies, obtains by fraud, or otherwise knowingly without authority converts to his own use or to the use of another, property having a value of $5,000 or more owned by or under the care, custody, or control of such organization or State or local government agency, shall be imprisoned for not more than ten years and fined not more than $100,000 or an amount equal to twice that which was obtained in violation of this subsection, whichever is greater, or both so imprisoned and fined.

[(b) Whoever, being an agent of an organization, or of a State or local government agency, described in subsection (a), solicits, demands, accepts, or agrees to accept anything of value from a person or organization other than his employer or principal for or because of the recipient's conduct in any transaction or matter or a series of transactions or matters involving $5,000 or more concerning the affairs of such organization or State or local government agency, shall be imprisoned for not more than ten years or fined not more than $100,000 or an amount equal to twice that which was obtained, demanded, solicited or agreed upon in violation of this subsection, whichever is greater, or both so imprisoned and fined.

[(c) Whoever offers, gives, or agrees to give to an agent of an organization or of a State or local government agency, described in subsection (a), anything of value for or because of the recipient's conduct in any transaction or matter or any series of transactions or matters involving $5,000 or more concerning the affairs of such organization or State or local government agency, shall be imprisoned not more than ten years or fined not more than $100,000 or

an amount equal to twice that offered, given or agreed to be given, whichever is greater, or both so imprisoned and fined.

[(d) For purposes of this section—

[(1) "agent" means a person or organization authorized to act on behalf of another person, organization or a government and, in the case of an organization or a government, includes a servant or employee, a partner, director, officer, manager and representative;

[(2) "organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, and any other association of persons;

[(3) "government agency" means a subdivision of the executive, legislative, judicial, or other branch of a government, including a department, independent establishment, commission, administration, authority, board, and bureau; or a corporation or other legal entity established by, and subject to control by, a government or governments for execution of a governmental or intergovernmental program; and

[(4) "local" means of or pertaining to a political subdivision within a State.]

§ 666. Theft or bribery concerning programs receiving Federal funds

(a) Whoever, if the circumstance described in subsection (b) of this section exists—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—

(i) is valued at $5,000 or more, and

(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be fined under this title, imprisoned not more than 10 years, or both.

(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) As used in this section—

(1) the term "agent" means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

(2) the term "government agency" means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program; and

(3) the term "local" means of or pertaining to a political subdivision within a State.

* * * * * * *

CHAPTER 41—EXTORTION AND THREATS

* * * * * * *

§ 875. Interstate *or foreign* communications

(a) Whoever transmits in interstate *or foreign* commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate *or foreign* commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate *or foreign* commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate *or foreign* commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a decreased person or any threat to accuse the addressee or any other person of a crime, shall be fined not more than $500 or imprisoned not more than two years, or both.

* * * * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * * * *

§ 1028. Fraud and related activity in connection with identification documents

(a) * * *

* * * * * * *

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under [title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)] *chapter 224 of this title.*

* * * * * * *

§ 1029. Fraud and related activity in connection with access devices

(a) Whoever—
(1) * * *

* * * * * * *

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under [title V of the Organized Crime Control Act of 1970) 18 U.S.C. note prec. 3481)] *chapter 224 of this title.*

* * * * * * *

CHAPTER 55—KIDNAPING

* * * * * * *

§ 1201. Kidnaping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, [when:] *when—*

(1) the person is willfully transported in interstate or foreign commerce;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 101(36) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(36));

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) [The] *the* person is among those officers and employees designated in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of his official [duties,] *duties;*

shall be punished by imprisonment for any term of years or for life.

* * * * * * *

(d) Whoever attempts to violate subsection (a)(4) *or (a)(5)* shall be punished by imprisonment for not more than twenty years.

* * * * * * *

CHAPTER 65—MALICIOUS MISCHIEF

Sec.
1361. Government property or contracts.
1362. Communication lines, stations or systems.
1363. Buildings or property within special maritime and territorial jurisdiction.
1364. Interference with foreign commerce by violence.
1365. Tampering with consumer products.
[1365.] *1366.* Destruction of an energy facility.

* * * * * * *

[§ 1365.] *§ 1366.* Destruction of an energy facility

(a) Whoever knowingly and willfully damages the property of an energy facility in an amount that in fact exceeds $100,000, or damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine of not more than $50,000 or imprisonment for not more than ten years, or both.

(b) Whoever knowingly and willfully damages the property of an energy facility in an amount that in fact exceeds $5,000 shall be punishable by a fine of not more than $25,000, or imprisonment for not more than five years, or both.

(c) For purposes of this section, the term "energy facility" means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or interstate transmission facilities, as defined in 49 U.S.C. 1671.

(d) The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item:

["1365.] *"1366.* Destruction of an energy facility."

* * * * * * *

CHAPTER 73—OBSTRUCTION OF JUSTICE

* * * * * * *

§ 1512. Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

(B) in the case of an attempt, imprisonment for not more than twenty years.

[(a)] *(b)* Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

[(b)] *(c)* whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be fined not more than $25,000 or imprisoned not more than one year, or both.

[(c)] *(d)* In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden

of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

[(d)] *(e)* For the purposes of this section—

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

[(e)] *(f)* In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

[(f)] *(g)* There is extraterritorial Federal jurisdiction over an offense under this section.

* * * * * * *

CHAPTER 87—PRISONS

Sec.
1791. Providing or possessing contraband in prison.
1792. Mutiny and riot prohibited.
1793. Trespass on Bureau of Prisons reservations and land.

[§ 1791. Providing or possessing contraband in prison

[(a) Offense

[A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

[(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

[(A) a firearm or destructive device;

[(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

[(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

[(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

[(E) United States currency; or

[(F) any other object; or

[(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

[(b) Grading

[An offense described in this section is punishable by—

[(1) imprisonment for not more than ten years, a fine of not more than $25,000, or both, if the object is anything set forth in paragraph (1)(A);

[(2) imprisonment for not more than five years, a fine of not more than $10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

[(3) imprisonment for not more than one year, a fine of not more than $5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

[(4) imprisonment for not more than six months, a fine of not more than $1,000, or both, if the object is any other object.

[(c) Definitions

[As used in this section, "firearm" and "destructive device" have the meaning given those terms, respectively, in 18 U.S.C. 921(a)(3) and (4).]

§ 1791. Providing or possessing contraband in prison

(a) OFFENSE.—Whoever—

(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

(1) imprisonment for not more than 10 years, or both, if the object is specified in subsection (c)(1)(A) of this section;

(2) imprisonment for not more than 5 years, or both, if the object is specified in subsection (c)(1)(B) or (c)(1)(C) of this section;

(3) imprisonment for not more than one year, or both, if the object is specified in subsection (c)(1)(D) or (c)(1)(E) of this section; and

(4) imprisonment for not more than 6 months, or both, if the object is specified in subsection (c)(1)(F) of this section.

(c) DEFINITIONS.—As used in this section—

(1) the term "prohibited object" means—

(A) a firearm or destructive device;

(B) ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

(C) a narcotic drug, lysergic acid diethylamide, or phencyclidine;

(D) a controlled substance (other than a controlled substance referred to in subparagraph (C) of this subsection) or an alcoholic beverage;

(E) any United States or foreign currency; and

(F) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

(2) the terms "ammunition", "firearm", and "destructive device" have, respectively, the meanings given those terms in section 921 of this title;

(3) the terms "controlled substance" and "narcotic drug" have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(4) the term "prison" means a Federal correctional, detention, or penal facility.

* * * * * * *

§ 1792. Mutiny and riot prohibited

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal, *detention,* or correctional facility, shall be imprisoned not more than ten years or fined not more than $25,000, or both.

§ 1793. Trespass on Bureau of Prisons reservations and land

Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined not more than $500 or imprisoned not more than six months, or both.

* * * * * * *

CHAPTER 103—ROBBERY AND BURGLARY

* * * * * * *

§ 2113. Bank robbery and incidental crimes

(a) Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, *or obtains or attempts to obtain by extortion* any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association; or

Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny—

Shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

* * * * * * *

CHAPTER 109—SEARCHES AND SEIZURES

§ 2232. Destruction or removal of property to prevent seizure

Whoever, before, during, or after seizure of any property by any person authorized to make searches and seizures, in order to prevent the seizure or securing of any goods, wares, or merchandise by such person, staves, breaks, throws overboard, destroys, or removes the same, shall be fined not more than $10,000 or imprisoned *not* more than five years, or both.

Whoever, having knowledge that any person authorized to make searches and seizures has been authorized or is otherwise likely to make a search or seizure, in order to prevent the authorized seizing or securing of any person, goods, wares, merchandise or other property, gives notice or attempts to give notice of the possible search or seizure to any person shall be fined not more than $10,000 or imprisoned not more than five years, or both.

* * * * * * *

CHAPTER 113—STOLEN PROPERTY

Sec.
2320. Trafficking in counterfeit goods or services.
[2320.] *2321.* Trafficking in certain motor vehicles or motor vehicle parts.

* * * * * * *

[§ 2320.] *§ 2321.* Trafficking in certain motor vehicles or motor vehicle parts

(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined not more that $20,000 or imprisoned not more than ten years, or both.

(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 511 of this title.

(c) As used in this section, the terms "identification number" and "motor vehicle" have the meaning given those terms in section 511 of this title.

* * * * * * *

CHAPTER 203—ARREST AND COMMITMENT

* * * * * * *

§ 3050. Bureau of Prisons employees' powers

[An officer or employee of the Bureau of Prisons of the Department of Justice may make arrests without warrant for violations of any of the provisions of sections 751, 752, 1791, or 1792 of this title, if he has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of his escaping before a warrant can be obtained for his arrest.] If the arrested person is a fugitive from custody, [he] *such prisoner* shall be returned to custody. Officers and employees of the said Bureau of

Prisons may carry firearms under such rules and regulations as the Attorney General may prescribe. *An officer or employee of the Bureau of Prisons may—*

(1) make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code, and section 1826(c) (escape) of title 28, United States Code;

(2) make arrests on Bureau of Prisons premises or reservation land of a penal, detention, or correctional facility without warrant for violations occurring thereon of the following provisions: sections 661 (theft), 1361 (depredation of property), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and

(3) arrest without warrant for any other offense described in title 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property;

if such officer or employee has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of such person's escaping before an arrest warrant can be obtained.

CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

* * * * * * *

§ 3141. Release and detention authority generally

(a) Pending trial

A judicial officer [who is] authorized to order the arrest of a person [pursuant to section] *under section* 3041 of this title *before whom an arrested person is brought* shall order that [an arrested] *such* person [who is brought before him] be released or detained, pending judicial proceedings, [pursuant to the provisions of] *under* this chapter.

(b) Pending sentence or appeal

A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained [pursuant to the provisions of] *under* this chapter.

§ 3142. Release or detention of a defendant pending trial

(a) In general

Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

(1) released on [his] personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b) *of this section*;

(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c) *of this section*;

(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d) *of this section*; or

(4) detained pursuant to the provisions of subsection (e) *of this section.*

(b) Release on personal recognizance or unsecured appearance bond

The judicial officer shall order the pretrial release of the person on **[**his**]** personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of **[**his**]** release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

(c) Release on conditions

(1) If the judicial officer determines that the release described in subsection (b) *of this section* will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, **[**he**]** *such judicial officer* shall order the pretrial release of the person—

[(1)**]** *(A)* subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

[(2)**]** *(B)* subject to the least restrictive further condition, or combination of conditions, that **[**he**]** *such judicial officer* determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

[(A)**]** *(i)* remain in the custody of a designated person, who agrees to **[**supervise him**]** *assume supervision* and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

[B**]** *(ii)* maintain employment, or, if unemployed, actively seek employment;

[C**]** *(iii)* maintain or commence an educational program;

[D**]** *(iv)* abide by specified restrictions on **[**his**]** personal associations, place of abode, or travel;

[E**]** *(v)* avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

[F**]** *(vi)* report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

[G**]** *(vii)* comply with a specified curfew;

[H] *(viii)* refrain from possessing a firearm, destructive device, or other dangerous weapon;

[I] *(ix)* refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

[J] *(x)* undergo available medical, *psychological,* or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

[K] *(xi)* execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

[L] *(xii)* execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

[M] *(xiii)* return to custody for specified hours following release for employment, schooling, or other limited purposes; and

[N] *(xiv)* satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

(2) The judicial officer may not impose a financial condition that results in the pretrial detention of the person.

(3) The judicial officer may at any time amend his order to impose additional or different conditions of release.

(d) Temporary detention to permit revocation of conditional release, deportation, or exclusion

If the judicial officer determines that—

(1) the person—

(A) is, and was at the time the offense was committed, on—

(i) release pending trial for a felony under Federal, State, or local law;

(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

(iii) probation or parole for any offense under Federal, State, or local law; or

(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

(2) the person may flee or pose a danger to any other person or the community;

[he] *such judicial officer* shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sun-

days, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take [the person] *such person* into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B) *of this subsection* the person has the burden of proving to the court [that he is a citizen of the United States or is lawfully admitted] *such person's United States citizenship or lawful admission* for permanent residence.

(e) Detention

If, after a hearing pursuant to the provisions of subsection (f) *of this section,* the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, [he] *such judicial officer* shall order the detention of the person [prior to] *before* trial. In a case [described in (f)(1)] *described in subsection (f)(1) of this section,* a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if [the judge] *such judicial officer* finds that—

(1) the person has been convicted of a Federal offense that is described in subsection (f)(1) *of this section,* or of a State or local offense that would have been an offense described in subsection (f)(1) *of this section* if a circumstance giving rise to Federal jurisdiction had existed;

(2) the offense described in paragraph (1) *of this subsection* was committed while the person was on release pending trial for a Federal, State, or local offense; and

(3) A period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1) *of this section,* whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under section 924(c) of title 18 of the United States Code.

(f) Detention hearing

The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) *of this section* will reasonably assure the appearance of the

person as required and the safety of any other person and the community [in a case]—

(1) upon motion of the attorney for the Government, *in a case* that involves—

(A) a crime of violence;

(B) an offense for which the maximum sentence is life imprisonment or death;

(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C) *of this paragraph*, or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) *of this paragraph* if a circumstance giving rise to Federal jurisdiction had existed; or

(2) [Upon] *upon* motion of the attorney for the Government or upon the judicial officer's own motion, *in a case* that involves—

(A) a serious risk that the person will flee;

(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or [on his own motion] *sua sponte*, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether [he] *such person* is an addict. At the hearing, [the person] *such person* has the right to be represented by counsel, and, if [he is] financially unable to obtain adequate representation, to have counsel appointed [for him]. The person shall be afforded an opportunity to testify, to present witnesses [on his own behalf], to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to subsection (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

(g) Factors to be considered

The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the availabile information concerning—

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including—

(A) [his] *the person's* character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, [he] *the person* was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L) *of this section*, the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

(h) Contents of release order

In a release order issued pursuant to the provisions of subsection (b) or (c) *of this section*, the judicial officer shall—

(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

(2) advise the person of—

(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

(C) [the provisions of] section 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness, victim, or an informant).

(i) Contents of detention order

In a detention order issued pursuant to the provisions of subsection (e) *of this section,* the judicial officer shall—

(1) include written findings of fact and a written statement of the reasons for the detention;

(2) direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

(3) direct that the person be afforded reasonable opportunity for private consultation with [his] counsel; and

(4) direct that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding.

The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

* * * * * * *

§ 3143. Release or detention of a defendant pending sentence or appeal

(a) Release or detention pending sentence

The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released [pursuant to] *under* section 3142(b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with [the provisions of] section 3142(b) or (c).

(b) Release or detention pending appeal by the defendant

The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released [pursuant to] *under* section 3142(b) or (c) *of this title;* and

(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal [or], an order for a new trial, *or a sentence that does not include a term of imprisonment.*

If the judicial officer makes such findings, [he] *such judicial officer* shall order the release of the person in accordance with the [the provisions of] section 3142(b) or (c) *of this title.*

(c) Release or detention pending appeal by the Government

The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to [the provisions of] section 3731 of this title, in accordance with the provisions of section 3142 *of this title*, unless the defendant is otherwise subject to a release or detention order. *Except as provided in subsection (b) of this section, the judicial officer, in a case in which an appeal has been taken by the United States under section 3742, shall—*

(1) if the person has been sentenced to a term of imprisonment, order that person detained; and

(2) in any other circumstance, release or detain the person under section 3142.

§ 3144. Release or detention of a material witness

If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by [subpena] *subpoena*, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142 *of this title*. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

* * * * * * *

§ 3146. Penalty for failure to appear

[(a) Offense

A person commits an offense if, after having been released pursuant to this chapter—

[(1) he knowingly fails to appear before a court as required by the conditions of his release; or

[(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

[(b) Grading

[If the person was released—

[(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

[(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

[(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

[(C) any other felony, he shall be fined not more than $5,000 or imprisoned for not more than two years, or both; or

[(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned for not more than one year, or both; or

[(2) for appearance as a material witness, he shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.]

(a) OFFENSE.—Whoever, having been released under this chapter knowingly—

(1) fails to appear before a court as required by the conditions of release; or

(2) fails to surrender for service of sentence pursuant to a court order;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—(1) The punishment for an offense under this section is—

(A) if the person was released in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction for—

(i) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, a fine under this title or imprisonment for not more than ten years, or both;

(ii) an offense punishable by imprisonment for a term of five years or more, a fine under this title or imprisonment for not more than five years, or both;

(iii) any other felony, a fine under this title or imprisonment for not more than two years, or both; or

(iv) a misdemeanor, a fine under this chapter or imprisonment for not more than one year, or both; and

(B) if the person was released for appearance as a material witness, a fine under this chapter or imprisonment for not more than one year, or both.

(2) A term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.

* * * * * * *

(c) Affirmative defense

It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement [that he] *to* appear or surrender, and that [he appeared] *the person appeared* or surrendered as soon as such circumstances ceased to exist.

(d) Declaration of forfeiture

If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) *of this title* or is subject to the release condition set forth in section [3142(c)(2)(K) or (c)(2)(L),] *clause (xi) or (xii) of section 3142(c)(1)(B) of this title,* the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

* * * * * * *

§ 3147. Penalty for an offense committed while on release

A person convicted of an offense committed while released [pursuant to] *under* this chapter shall be sentenced, in addition to the sentence prescribed for the offense, to—

(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed [pursuant to] *under* this section shall be consecutive to any other sentence of imprisonment.

§ 3148. Sanctions for violation of a release condition

(a) Available sanctions

A person who has been released pursuant to the provisions of section 3142 *of this title,* and who has violated a condition of his release, is subject to a revocation of release, and order of detention, and a prosecution for contempt of court.

(b) Revocation of release

The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which [his] *such person's* arrest was ordered for a proceeding in accordance with this section. To the extent practicable, a person charged with violating the condition of [his] release that [he] *such person* not commit a Federal, State, or local crime during the period of release, shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

(1) finds that there is—

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of [his] release; and

(2) finds that—

(A) based on the factors set forth in section 3142(g) *of this title,* there is no condition or combination of conditions of release that will assure that person will not flee or

pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, [he] *the judicial officer* shall treat the person in accordance with the provisions of section 3142 *of this title* and may amend the conditions of release accordingly.

(c) Prosecution for contempt

The [judge] *judicial officer* may commence a prosecution for contempt, pursuant to the provisions of section 401 *of this title,* if the person has violated a condition of [his] release.

* * * * * * *

§ 3156. Definitions

(a) As used in sections 3141–3150 of this chapter—

(1) [The term] *the term* "judicial officer" means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court of the District of Columbia;

(2) [The term] *the term* "offense" means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court established by Act of Congress; [and]

(3) [The term] *the term* "felony" means an offense punishable by a maximum term of imprisonment of more than one year; and

(4) [The term] *the term* "crime of violence" means—

(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) As used in sections 3152–3155 of this chapter—

(1) the term "judicial officer" means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and

* * * * * * *

SUBCHAPTER A—GENERAL PROVISIONS

* * * * * * *

§ 3552. Presentence reports

(a) * * *

* * * * * * *

(b) Presentence study and report by Bureau of Prisons

If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a misdemeanor or felony, it may order a study of the defendant. The study shall be conducted in the local community by qualified consultants unless the sentencing judge finds that there is a compelling reason for the study to be done by the Bureau of Prisons or there are no adequate professional resources available in the local community to perform the study. The period of the study shall [take] *be* no more than sixty days. The order shall specify the additional information that the court needs before determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The study shall inquire into such matters as are specified by the court and any other matters that the Bureau of Prisons or the professional consultants believe are pertinent to the factors set forth in section 3553(a). The period of the study may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of the study, or by the expiration of any extension granted by the court, the United States marshal shall, *if the defendant is in custody,* return the defendant to the court for final sentencing. The Bureau of Prisons or the professional consultants shall provide the court with a written report of the pertinent results of the study and make to the court whatever recommendations the Bureau or the consultants believe will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau or the consultants concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that they believe are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

(c) Presentence examination and report by psychiatric or psychological examiners

If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to it as a basis for determining the mental condition of the defendant, [it may order that the defendant undergo a psychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section 4247] *the court may order the same psychiat-*

ric or psychological examination and report thereon as may be ordered under section 4244(b) of this title.

* * * * * * *

§ 3553. Imposition of a sentence

(a) * * *

* * * * * * *

(b) Application of guidelines in imposing a sentence

The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described. *In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, the applicable policy statements of the Sentencing Commission, and the purposes of sentencing set forth in subsection (a)(2).*

* * * * * * *

SUBCHAPTER B—PROBATION

§ 3561. Sentence of probation

(a) In general

A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

(1) the offense is a Class A or Class B felony;

(2) the offense is an offense for which probation has been expressly precluded; or

(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

[The liability of a defendant for any unexecuted fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.]

* * * * * * *

§ 3563. Conditions of probation

(a) Mandatory conditions

The court shall provide, as an explicit condition of a sentence of probation—

(1) * * *

* * * * * * *

(b) Discretionary conditions

The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liber-

ty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

(1) * * *

* * * * * * *

(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense [in section 3581(b)], during the first year of the term of probation;

* * * * * * *

§ 3564. Running of a term of probation

(a) * * *

* * * * * * *

(b) Concurrence with other sentences

Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. [A term of probation runs concurrently with any Federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned for a period of at least thirty consecutive days in connection with a conviction for a Federal, State or local crime.] *A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.*

* * * * * * *

SUBCHAPTER D—IMPRISONMENT

* * * * * * *

§ 3583. Inclusion of a term of supervised release after imprisonment

(a) * * *

* * * * * * *

(e) [Modification of term or conditions] ***Modification of conditions or revocation***

The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

(1) terminate a term of supervised release [previously ordered] and discharge the person released at any time after the expiration of one year of supervised release, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice.

* * * * * * *

CHAPTER 229—FINES, PENALTIES AND FORFEITURES

* * * * * * *

SUBCHAPTER A—PROBATION

* * * * * * *

§ 3603. Duties of probation officers

A probation officer shall—

[(a)] *(1)* instruct a probationer or a person on supervised release, who is under his supervision, as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

[(b)] *(2)* keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

[(c)] *(3)* use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

[(d)] *(4)* be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

[(e)] *(5)* keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

[(f)] *(6)* upon request of the Attorney General or his designee, [supervise] *assist in the supervision of* and furnish information about, a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c);

[(g)] *(7)* keep informed concerning the conduct, condition, and compliance with any condition of probation, including the payment of a fine or restitution of each probationer under his supervision and report thereon to the court placing such person on probation and report to the court any failure of a probationer under his supervision to pay a fine in default within thirty days after notification that it is in default so that the court may determine whether probation should be revoked; and

[(h)] *(8)* perform any other duty that the court may designate.

* * * * * * *

SUBCHAPTER C—IMPRISONMENT

§ 3624. Release of a prisoner

(a) * * *

(b) Credit toward service of sentence for satisfactory behavior

A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of fifty-four days at the end of each year of his term of imprisonment, beginning [after] *at the end of* the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence.

* * * * * * *

(e) Supervision after release

A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment[. The term] *and* runs concurrently with any Federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release[, except that it]. *A term of supervised release* does not run during any period in which the person is imprisoned[, other than during limited intervals as a condition of probation or supervised release,] in connection with a conviction for a Federal, State, or local crime *unless the imprisonment is for a period of less than 30 consecutive days.* No prisoner shall be released on supervision unless such prisoner agrees to adhere to an installment schedule, not to exceed two years except in special circumstances, to pay for any fine imposed for the offense committed by such prisoner.

* * * * * * *

CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

* * * * * * *

§ 3673. Definitions for sentencing provisions

As used in chapters 227 and 229—

[a] *(1) the term* "found guilty" includes acceptance by a court of a plea of guilty or nolo contendere;

[b] *(2) the term* "commission of an offense" includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

[c] *(3) the term* "law enforcement officer" means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense.

* * * * * * *

CHAPTER 235—APPEAL

* * * * * * *

§ 3731. Appeal by United States

In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information or granting a new trial after verdict or judgment, as to any one or more counts, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

An appeal by the United States shall lie to a court of appeals from a decision or order of a district courts suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding.

An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.

The appeal in all such cases shall be taken within thirty days after the decision, judgment or order has been rendered and shall be diligently prosecuted.

[Pending the prosecution and determination of the appeal in the foregoing instances, the defendant shall be released in accordance with chapter 207 of this title.]

The provisions of this section shall be liberally construed to effectuate its purpose.

* * * * * * *

CHAPTER 303—BUREAU OF PRISONS

Sec.
4041. Bureau of Prisons; director and employees.
4042. Duties of Bureau of Prisons.

4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons.
4044. Donations on behalf of the Bureau of Prisons.
4045. Authority to conduct autopsies

* * * * * * *

§ 4044. Donations on behalf of the Bureau of Prisons

The Attorney General may, in accordance with rules prescribed by the Attorney General, accept in the name of the Department of Justice any form of devise, bequest, gift or donation of money or property for use by the Bureau of Prisons or Federal Prison Industries. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

§ 4045. Authority to conduct autopsies

A chief executive officer of a Federal penal or correctional facility may, pursuant to rules prescribed by the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death, when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consistent with the needs of the autopsy or of specific scientific or medical tests, provisions of State and local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or post-mortem operation, including removal of tissue for transplanting, to be performed on the body of a deceased inmate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located.

* * * * * * *

CHAPTER 311—PAROLE

Sec.
4201. Definitions.
4202. Parole Commission created.
4203. Powers and duties of the Commission.
4204. Powers and duties of the Chairman.
4205. Time of eligibility for release on parole.
4206. Parole determination criteria.
4207. Information considered.
4208. Parole determination proceeding; time.
4209. Conditions of parole.
4210. Jurisdiction of Commission.
4211. Early termination of parole.
4212. Aliens.
4213. Summons to appear or warrant for retaking of parolee.
4214. Revocation of parole.
4215. Reconsideration and appeal.
[4216. Young adult offenders.
[4217. Warrants to retake Canal Zone parole violators.]
4218. Applicability of Administrative Procedure Act.

* * * * * * *

§ 4203. Powers and duties of the Commission

(a) The Commission shall meet at least quarterly, and by majority vote shall—

(1) * * *

(2) create such regions as are necessary to carry out the provisions of this chapter[, but in no event less than five]; and

* * * * * * *

§ 4204. Powers and duties of the Chairman

(a) The Chairman shall—

(1) * * *

* * * * * * *

(5) designate [three] *not fewer than three* Commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship), and designate, for each such region established pursuant to section 4203, one Commissioner to serve as regional Commissioner in each such region; except that in each such designation the Chairman shall consider years of service, personal preference and fitness, and no such designation shall take effect unless concurred in by the President, or his designee;

* * * * * * *

§ 4208. Parole determination proceeding; time

(a) * * *

* * * * * * *

(g) If parole is denied, a personal conference to explain the reasons for such denial shall be held, if feasible, between the prisoner and *any representative of* the Commissioners or examiners conducting the proceeding at the conclusion of the proceeding. When feasible, the conference shall include advice to the prisoner as to what steps may be taken to enhance his chance of being released at a subsequent proceeding.

* * * * * * *

§ 4209. Conditions of parole

(a) * * *

* * * * * * *

(d)(1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a United States probation officer supervising a parolee: *Provided,* That the parolee receives notice of such action and has ten days after receipt of such notice to express his views on the proposed modification. Following such ten-day period, the Commission shall have twenty-one days, exclusive of holidays, to act upon such motion or application. *Notwithstanding any other provision of this paragraph, the Commission may modify conditions of parole, without regard to*

such ten-day period, on any such motion if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public.

§ 4210. Jurisdiction of Commission

(a) * * *

(b) Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that—

(1) such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

(2) in the case of a parolee who has been convicted of [a Federal, State, or local crime] *any criminal offense* committed subsequent to his release on parole, and such [crime] *offense* is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214(b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

* * * * * * *

[(e) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.]

[(f)] *(e)* Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

* * * * * * *

§ 4214. Revocation of parole

(a) * * *

(b)(1) Conviction for [a Federal, State, or local crime] *any criminal offense* committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such [a crime] *an offense* and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against him as a detainer. Such detainer shall be reviewed by the Commission within one hundred and eighty days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as pro-

vided in subsection (a)(2)(B) of this section to assist him in the preparation of such application.

* * * * * * *

[§ 4216. Young adult offenders

[In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C. chap. 402) sentence may be imposed pursuant to the provisions of such Act.

[§ 4217. Warrants to retake Canal Zone parole violators

[An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.]

* * * * * * *

PART IV—CORRECTION OF YOUTHFUL OFFENDERS

* * * * * * *

CHAPTER 401—GENERAL PROVISIONS

* * * * * * *

§ 5003. Custody of State offenders

[(a) The Attorney General, when the Director shall certify that proper and adequate treatment facilities and personnel are available, is hereby authorized to contract with the proper officials of a State or Territory for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or Territory: *Provided,* That any such contract shall provide for reimbursing the United States in full for all costs or other expenses involved.]

(a)(1) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available may contract with proper officials of a State or territory, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or territory.

(2) Any such contract shall provide—

(A) for reimbursing the United States in full for all costs or expenses involved;

(B) for receiving in exchange persons convicted of criminal offenses in the courts of the United States, to serve their sentence in appropriate institutions or facilities of the State or territory by designation as provided in section 4082(b) of this title, this exchange to be made according to formulas or conditions which may be negotiated in the contract; or

(C) for compensating the United States by means of a combination of monetary payment and of receipt of persons convicted of criminal offenses in the courts of the United States, according to formulas or conditions which may be negotiated in the contract.

(3) No such contract shall provide for the receipt of more State or territory prisoners by the United States than are transferred to that State or territory by such contract.

* * * * * * *

CHAPTER 403—JUVENILE DELINQUENCY

* * * * * * *

§ 5037. Dispositional hearing

(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection [(e)] *(d)*. After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old, beyond the lesser of—

(A) three years, or

(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term of imprisonment that would be authorized [by section 3581(b)] if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) in any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized [by section 3581(b)] if the juvenile had been tried and convicted as an adult. *Section 3624 is applicable to an order placing a juvenile under detention.*

* * * * * * *

TITLE 28, UNITED STATES CODE

* * * * * * *

PART III—COURT OFFICERS AND EMPLOYEES

* * * * * * *

CHAPTER 58—UNITED STATES SENTENCING COMMISSION

* * * * * * *

§ 992. Terms of office; compensation

(a) * * *

* * * * * * *

(c) The Chairman of the Commission shall hold a full-time position and shall be compensated during the term of office at the annual rate at which judges of the United States courts of appeals are compensated. The voting members of the Commission, other than the Chairman, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section [225] *235*(a)(1)(B)(ii) of the Sentencing Reform Act of [1983,] *1984,* and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chairman, shall hold parttime positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

(d) Sections 44(c) and 134(b) of this title (relating to the residence of judges) do not apply to any judge holding a full-time position on the Commission under subsection (c) of this section.

§ 993. Powers and duties of Chairman

The Chairman shall—

(a) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and

(b) direct—

(1) the preparation of requests for appropriations for the Commission; and

(2) the use of funds made available to the Commission.

[Before the appointment of the first Chairman, the Administrative Office of the United States Courts may make requests for appropriations for the Commission.**]**

§ 994. Duties of the Commission

(a) * * *

(b) (1) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code.

(2) If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or 6 months, except that, if the **[**maximum**]** *minimum* term of the range is 30 years or more, the maximum may be life imprisonment.

* * * * * * *

(h) The Commission shall assure that the guidelines **[**will**]** specify a sentence to a term of imprisonment at or near the maximum term authorized **[**by section 3581(b) of title 18, United States Code,**]** for categories of defendants in which the defendant is eighteen years old or older and—

(1) has been convicted of a felony that is—

(A) a crime of violence; or

(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); and

* * * * * * *

(i) The Commission shall assure that the guidelines **[**will**]** specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;

* * * * * * *

(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify *in what circumstances and* by what amount the sentences of prisoners serving terms of imprisonment [that are outside the applicable guideline ranges] for the offense may be reduced.

* * * * * * *

PART V—PROCEDURE

* * * * * * *

CHAPTER 123—FEES AND COSTS

* * * * * * *

§ 1921. United States marshal's fees

[Only] *(a) Except as otherwise provided by law, only* the following fees of United States marshals shall be collected and taxed as costs [, except as otherwise provided]:

(1) For serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding, except as otherwise provided, $3[;].

(2) For serving a subpena or summons for a witness or appraiser, $2[;].

(3) For forwarding any writ, order, or process to another judicial district for service, in addition to the prescribed fee, $1[;].

(4) For the preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale, $3[;].

(5) For seizing or levying on property (including seizures in admiralty), disposing of the same by sale, setoff, or otherwise and receiving and paying over money, commissions of 3 per centum on the first $1,000 of the amounts collected and 1½ per centum on the excess of any sum over $1,000. If not disposed of by marshal's sale, the commission shall be in such amount as may be allowed by the court. In all cases in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission herein authorized to be paid to the marshal shall be reduced by the amount paid to said auctioneer or other party[;].

(6) For the keeping of property attached (including boats, vessels, or other property attached or libeled) actual expenses incurred, such as storage, moving boat hire, or other special transportation, watchmen's or keeper's fees, insurance, and $3 per hour for each deputy marshal required for special services, such as guarding, inventorying, moving, and so forth. The marshals shall collect, in advance, a deposit to cover the initial expenses for such services and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded[;].

(7) For copies of writs or other papers furnished at the request of any party, 30 cents per folio of one hundred words or fraction thereof[;].

(8) For all services in a criminal case except for the summoning of witnesses, a sum to be fixed by the court not exceeding $25 where conviction is for a misdemeanor and not exceeding $100 where conviction is for a felony[;].

(9) For necessary travel in serving or endeavoring to serve any process, writ, or order, 12 cents per mile, or fraction thereof, to be computed from the place where service is returnable to the place of service or endeavor; or, where two or more services or endeavors, or where an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of that party. When two or more writs of any kind, required to be served in behalf of the same party, on the same person, in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected[;].

(b)(1) No mileage fees shall be collected for services or endeavors to serve in the District of Columbia[;].

(2) The marshal may require a deposit to cover all fees and expenses herein prescribed.

(c) Notwithstanding section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in advance in appropriations Acts—

(1) to credit to such Service's appropriation all fees, commissions, and expenses collected by such Service for—

(A) the service of civil process, including complaints, summonses, subpoenas, and similar process; and

(B) seizures, levies, and sales associated with judicial orders of execution; and

(2) to use such credited amounts for the purpose of carrying out such activities.

* * * * * * *

FEDERAL RULES OF CRIMINAL PROCEDURE

* * * * * * *

IV. ARRAIGNMENT, AND PREPARATION FOR TRIAL

* * * * * * *

Rule 12.2. Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition

(a) * * *

* * * * * * *

(c) MENTAL EXAMINATION OF DEFENDANT. In an appropriate case the court may, upon motion of the attorney for the government, order the defendant to submit to an examination pursuant to 18 U.S.C. *4241 or* 4242. No statement made by the defendant in the course of any examination provided for by this rule, whether the examination be with or without the consent of the defendant, no testimony by the expert based upon such statement, and no other

fruits of the statement shall be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced testimony.

* * * * * * *

VI. TRIAL

* * * * * * *

Rule 29. Motion for Judgment of Acquittal

(a) * * *

* * * * * * *

(d) SAME: CONDITIONAL RULING ON GRANT OF MOTION. If a motion for judgment of acquittal after verdict of guilty under this Rule is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed, specifying the grounds for such determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial has been granted conditionally and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. If such motion has been denied conditionally, the appellee on appeal may assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

* * * * * * *

SECTION 235 OF THE COMPREHENSIVE CRIME CONTROL ACT OF 1984

EFFECTIVE DATE

SEC. 235. (a)(1) This chapter shall take effect on the first day of the first calendar month beginning 36 months after the date of enactment, except that—

(A) the repeal of chapter 402 of title 18, United States Code, shall take effect on the date of enactment;

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1983, which ever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated under section 994(a)(1) of title 28 to the Congress within 30 months of the effective date of [the chapter] *such chapter 58*; and

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1)[, and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code,] shall not go into effect until [the day after]—

(I) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(II) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within one hundred and fifty days of submission of the guidelines, reported to the Congress the results of its study; and

(III) *the day after* the Congress has had six months after the date described in subclause (I) in which to examine the guidelines and consider the reports; and

[(IV) the provisions of sections 227 and 228 shall take effect on the date of enactment.]

(IV) section 212(a)(2) takes effect, in the case of the initial sentencing guidelines so promulgated.

* * * * * * *

SECTION 1402 OF THE VICTIMS OF CRIME ACT OF 1984

CRIME VICTIMS FUND

SEC. 1402. (a) * * *

* * * * * * *

(e) Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during [the next succeeding fiscal year,] *the next two succeeding fiscal years* at the end of which [year] *two-year period* any remaining unobligated sums shall be returned to the general fund of the Treasury.

* * * * * * *

○